S. Hrg. 98-449

MISCELLANEOUS PUBLIC LANDS, CONVEYANCES, AND WILDERNESS DESIGNATIONS IN THE STATES OF ARIZONA AND NEW MEXICO

HEARING

BEFORE THE

SUBCOMMITTEE ON
PUBLIC LANDS AND RESERVED WATER

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 285

A BILL TO DESIGNATE THE BISTI BADLANDS WILDERNESS IN THE STATE OF NEW MEXICO

S. 626

A BILL TO DESIGNATE THE ARAVAIPA CANYON WILDERNESS IN THE STATE OF ARIZONA

S. 862

A BILL TO AMEND THE ACT OF MAY 31, 1962 (76 Stat. 89)

S. 1042

A BILL TO CONVEY CERTAIN LANDS IN LANE COUNTY, OREGON

MAY 17, 1983

Printed for the use of the
Committee on Energy and Natural Resources

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MISCELLANEOUS PUBLIC LANDS, CONVEYANCES, AND WILDERNESS DESIGNATIONS IN THE STATES OF ARIZONA AND NEW MEXICO

TUESDAY, MAY 17, 1983

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room SD-366, Dirksen Office Building, Hon. Malcolm Wallop, presiding.

Present: Senators Wallop, Domenici, and Hecht.

Also present: Tony Bevinetto, professional staff member; and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Good morning. The Subcommittee on Public Lands and Reserved Water will hear testimony today on the following bills: S. 626, to designate the Aravaipa Canyon Wilderness in the State of Arizona; S. 862, to amend the act of May 31, 1962; S. 1042, to convey certain lands in Lane County, Oreg.; and S. 285, to designate the Bisti Badlands Wilderness in the State of New Mexico.

Without objection, I will place a copy of bills and statements from Senators McClure and Hatfield in the record. The hearing record will remain open for 10 days but let me urge any who have been asked to respond to questions to do so as quickly as possible.

[The bills and statements follow:]

II

98TH CONGRESS
1ST SESSION

S. 285

To designate the Bisti Badlands Wilderness in the State of New Mexico.

IN THE SENATE OF THE UNITED STATES

JANUARY 31 (legislative day, JANUARY 25), 1983

Mr. DOMENICI (for himself and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To designate the Bisti Badlands Wilderness in the State of New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bisti Badlands Wilderness Act".

SEC. 2. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) and consistent with the policies and provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1701 et seq.), certain public lands in San Juan County, New Mexico, which comprise approximately three thousand nine hundred and sixty-eight acres, as generally depicted on a map entitled "Bisti Badlands Wilderness-Proposed" and dated January , 1983, are hereby designated as the Bisti Badlands Wilderness and, therefore, as a component of the National Wilderness Preservation System.

SEC. 3. Subject to valid existing rights, the Bisti Badlands Wilderness shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness. For purposes of this Act, any references in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, any reference to the Secretary of Agriculture with regard to administration of such areas shall be deemed to be reference to the Secretary of the Interior, and any reference to wilderness areas designated by the Wilderness Act of designated national forest wilderness areas shall be deemed to be a reference to the Bisti Badlands Wilderness. For purposes of this Act, the reference to national forest rules and regulations in the second sentence of section 4(d)(3) of the Wilderness Act shall be deemed to be a reference to rules and regulations applicable to public lands, as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1702).

SEC. 4. As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and legal description of the Bisti Badlands Wilderness with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in the legal description and map may be made. The map and legal description shall be on file and available for public inspection in the offices of the Bureau of Land Management, Department of the Interior.

SEC. 5. Prior to promulgation of rules and regulations to provide for its administration as a component of the National Wilderness Preservation System, subject to existing withdrawals, the Bisti Badlands Wilderness shall be administered under rules and regulations of the Secretary of the Interior applicable to designated primitive areas to the extent consistent with the provisions of this Act.

SEC. 6. Notwithstanding any other provisions of law, the De-na-zin area in San Juan County, New Mexico, comprising approximately nineteen thousand, nine hundred and twenty-two acres depicted on a map appropriately referenced and dated and on file with the New Mexico State Office, Bureau of Land Management, shall be subject to review and designation as a wilderness study area as provided in section 603 of the Federal Land and Management Policy Act (Public Law 94-579) until March 1, 1985.

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II

98TH CONGRESS
1ST SESSION

S. 626

To designate the Aravaipa Canyon Wilderness in the State of Arizona.

IN THE SENATE OF THE UNITED STATES

MARCH 1 (legislative day, FEBRUARY 23), 1983

Mr. GOLDWATER (for himself and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To designate the Aravaipa Canyon Wilderness in the State of Arizona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aravaipa Canyon Wilderness Act".

SEC. 2. The Congress finds that—

(a) the Aravaipa Canyon, situated in the Galiuro Mountains in the Sonoran desert region of southern Arizona, is a primitive place of great natural beauty that, due to the rare presence of a perennial stream, supports an extraordinary abundance and diversity of native plant, fish, and wildlife, making it a resource of national significance; and

(b) the Aravaipa Canyon should, together with certain adjoining public lands, be incorporated within the national wilderness preservation system in order to provide for the preservation and protection of this relatively undisturbed but fragile complex of desert, riparian and aquatic ecosystems, and the native plant, fish, and wildlife communities dependent on it, as well as to protect and preserve the area's great scenic, geologic, and historical values, to a greater degree than would be possible in the absence of wilderness designation.

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) and consistent with the policies and provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1701 et seq.), certain public lands in Graham and Pinal Counties, Arizona, which comprise approximately six thousand six hundred and seventy acres, as generally depicted on a map entitled "Aravaipa Canyon Wilderness—Proposed" and dated May 1980, are hereby designated as the Aravaipa Canyon Wilderness and, therefore, as a component of the national wilderness preservation system.

SEC. 4. Subject to valid existing rights, the Aravaipa Canyon Wilderness shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness. For purposes of this Act, any references in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act and any reference to the Secretary of Agriculture with regard to administration of such areas shall be deemed to be a reference to the Secretary of the Interior, and any reference to wilderness areas designated by the Wilderness Act or designated national forest wilderness areas shall be deemed to be a reference to the Aravaipa Canyon Wilderness. For purposes of this Act, the reference to national forest rules and regulations in the second sentence of section 4(d)(3) of the Wilderness Act shall be deemed to be a reference to rules and regulations applicable to public lands, as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1702).

SEC. 5. As soon as practicable after this Act takes effect, the Secretary of the Interior shall file a map and a legal description of the Aravaipa Canyon Wilderness with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in the legal description and map may be made. The map and legal description shall be on file and available for public inspection in the offices of the Bureau of Land Management, Department of the Interior.

SEC. 6. Except as further provided in this section, the Aravaipa Primitive Area designations of January 16, 1969, and April 28, 1971, are hereby revoked. Prior to promulgation of rules and regulations to provide for its administration as a component of the national wilderness preservation system, subject to existing withdrawals, the Aravaipa Canyon Wilderness shall be administered under rules and regulations of the Secretary of the Interior applicable to designated primitive areas to the extent consistent with the provisions of this Act.

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II

98TH CONGRESS
1ST SESSION

S. 862

To amend the Act of May 31, 1962 (76 Stat. 89).

IN THE SENATE OF THE UNITED STATES

MARCH 18 (legislative day, MARCH 14), 1983

Mr. MCCLURE (for himself and Mr. SYMMS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend the Act of May 31, 1962 (76 Stat. 89).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of May 31, 1962 (76 Stat. 89) (hereafter called the 1962 Act) is hereby amended to read as follows:

"SEC. 2. (a) Notwithstanding the provisions of section 1 of this Act, any citizen of the United States who, in good faith under color of title or claiming as a riparian owner, has, prior to March 30, 1961, placed valuable improvements upon, reduced to cultivation, or occupied any of the lands subject to the operation of the Act, or whose ancestors or predecessors in title have taken such action, shall, if such lands be offered for sale by the Secretary, have a preference right to purchase such lands at their fair market value as of May 31, 1967 (which shall not include any increased value resulting from the development or improvement thereof for agricultural or other purposes by the applicant or his predecessors in interest), under such rules and regulations as the Secretary may prescribe for the operation of this Act.

"(b) An applicant claiming a preference right, as defined in subsection (a) of this section, shall file an application therefor within one year after the date of approval of this Act, in accordance with the regulations prescribed by the Secretary. Failure to file an application within the time specified shall conclusively constitute an abandonment of the preference right which shall then expire and cannot thereafter be reasserted, and the provisions of section 1 of this Act shall apply.

"(c) Where a survey completed after the enactment of the amendment to this section discloses the existence of omitted lands subject to the operation of this Act, any person claiming a preference right, as defined in subsection (A) of this section, shall file an application therefor within one year after receiving notice that the land has been found to be omitted. Failure to file an application within the time specified shall constitute an abandonment of the preference right which shall then expire and cannot thereafter be reasserted, and the provisions of section 1 of this Act shall apply.

"(d) The Secretary shall complete all sales authorized by this section within two years after receiving application therefor.".

SEC. 2. Nothing in this Act or in any amendment to the 1962 Act shall be deemed to create a right or equity in any person for reimbursement for money paid for lands heretofore acquired by such person under the 1962 Act.

○

II

98TH CONGRESS
1ST SESSION

S. 1042

To convey certain lands in Lane County, Oregon.

IN THE SENATE OF THE UNITED STATES

APRIL 13 (legislative day, APRIL 12), 1983

Mr. HATFIELD introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To convey certain lands in Lane County, Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may convey, without consideration, to any person claiming to have been deprived of title to any portion of real property in Lane County, Oregon, as a result of the Bureau of Land Management survey entitled "Resurvey and Subdivision of Section 31, Township 21 South, Range 1 West", dated June 27, 1957, all right, title, and interest of the United States in and to such portion of real property if application therefor, accompanied by such proof of title, description of land, and other information, as the Secretary of the Interior may require, is received by such

Secretary within five years after the date of enactment of this Act.

○

STATEMENT OF SENATOR JAMES A. McCLURE
BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER
May 17, 1983

The omitted lands bill seeks to provide redress for a problem with which many people from my state have been living for far too long. The problem relates to what has come to be referred to as omitted lands along the Snake River in Idaho.

The omitted lands question is an old, old one for those of us in the West. In the mid 1800's, the federal government made its first survey of the lands in question. This survey became the basis for grants to private landholders who developed farms and ranches along either side of the Snake River. They proceeded to develop the land, to fence it, build their houses and barns on the land, and to pay taxes to the local, state, and federal governments.

In 1920, the federal government first discovered that an error had been made in the original survey affecting land on both sides of the Snake River. Yet, for the next forty years, the government was to do nothing to resolve the title problems which arose. It then stepped in and attempted to deny the use and benefit of the land to the people who had developed it and who had every reason to believe that it was their own.

In 1962, legislation which would permit landowners to re-acquire the land they had thought was their own was signed into law. The Act provided that the government should sell, at the Secretary of the Interior's discretion, lands it claimed on either side of the river at market value, less the value of the improvements that had been made on the land.

I was not in the Congress at the time the Omitted Lands Act was passed, but I know many of us looked at that Act and hoped it would work. Except for a few people, it has not worked.In many instances, the Interior Secretary decided against selling the land for one reason or another. In other cases no decision was made to sell the lands or not. Many of the people along the river still have not been given relief.

There have been other problems in the way the Act has been administered which have prevented its usefulness as a remedy. It took some 15 years for the Bureau of Land Management to begin to implement the law. During that period the value of the land has escalated. This is yet another example of the government winning out by sheer delay.

The omitted lands question is one of a class of erroneous surveys in which the dice are loaded against the individual taxpayer because the government can win by inaction. The government has simply refused to do anything, and the taxpayer is left without recourse. If he attempts to exercise a legal remedy to this situation, the entire weight and power of the federal government and its armies of personnel is arrayed against the taxpayer. Thus, the people who have been caught in this situation have no available solution other than our enacting additional legislation to direct the federal government to take the action Congress directed it to take once before.

The original Omitted Lands Act attempted to solve the problem by saying the government would give the people a second chance to buy the land they thought they owned. Frankly, that approach has never seemed entirely fair to me. It asked these people to pay the government twice simply because the government is the government, and I think that is wrong. But, it was a way of trying to solve the problem against a government that didn't necessarily want to solve it.

Even after the Act was passed, the government continued to say, "Well, even though it was our mistake and we probably shouldn't have that land -- even if the problem was the result of our mistake and our inaction, now that we have it we have decided we don't want to sell it." Land values have gone up to such a degree since the original law was passed that people, for the most part, are unable to pay the present value.

What our bill would do is provide that the landowners will have the right to secure good title to their land from the government for fair market price as of 1967, less the value of improvements.

This would have given the government 5 years to implement the legislative solution Congress provided in 1962. Five years seemes to me to be a reasonable amount of time in which this could and should have been completed. In general, all the parties involved have agreed that this is an acceptable price formulation. It will give the owners the benefit of what they could have secured the land for had the government not been at fault in taking inordinate time to complete its own work to implement the legislation.

The bill continues to allow the Secretary of the Interior to use his discretion in the sale of the omitted lands. It does not, for example, mandate that lands in the ecosystem of the South Fork of the Snake River be sold. This issue, as some of my colleagues may recall, was one of the problems which was encountered in getting an earlier bill on this subject through the Congress. Among other things, that bill would have removed the Secretary's discretion in making these sales. While I may object to the idea of people predominately from outside our state making decisions for us about lands within our borders, I am also anxious that this effort not be scuttled like the last one. Since the bill does maintain that the land is to be sold at the Secretary's discretion, the fears of those concerned about the Lower Snake River Ecosystem should be allayed.

Frankly, I am not particularly happy with the approach the bill takes, or with the approach taken back in 1962 for that matter.

If one of the parties was not the federal government, under the common law there would be no question about the ownership of the land. There is indeed a question as to what the original boundary line of the river was at the time of the original survey 100 years ago; yet, under any ordinary application of the law, the meander line is a description of the property, but the actual ownership extends to the center of the main channel of the stream. That is common law to the detriment of the person who thought he had title to the land. The extent of the mistake, though, was far greater than that the surveyor had trouble finding the stream. The site of the intersect line in the City of Idaho Falls is on a lava bluff that rises 25 feet above the water. The same is true of St. Anthony where a portion of the city, built on a lava rock many feet above the stream, has been in private hands for years with substantial building and improvements on it. The federal government now claims that.

This situation has gone on long enough. Without this legislation, the government will not only benefit from its initial error, but it will benefit again by appreciation in the value of these lands during the period it has delayed in implementing the Act passed twenty years ago.

Senator Mark O. Hatfield
Statement before the Senate Energy and Natural
Resources Committee
Subcommittee on Public Lands and Reserved Water
May 17, 1982

"On S. 1042, to convey certain lands in Lane County, Oregon"

Thank you Mr. Chairman for the opportunity to appear before you here this morning and speak in favor of S. 1042, allowing the conveyance of certain lands in Lane County, Oregon.

This legislation would allow the Bureau of Land Management to convey 3.11 acres of land to private property owners in Lane County. This property is located in what is known as the Culp Creek area. I would note that the legislation indicates that the BLM resurvey was on June 27, 1957, but after I introduced the bill, I am told that the correct date is November 12, 1959. It is my intention to offer an amendment to clarify this date when the full Committee considers the bill.

The property in dispute here is owned by a number of elderly property owners who have been paying property taxes on the land

INCLUDED IN THIS ERRONEOUS SURVEY SINCE THE LAND WAS ORIGINALLY PURCHASED. THE ORIGINAL SURVEY OF THIS PROPERTY WAS DONE IN 1941, AND WHEN THE BLM RESURVEYED THE PROPERTY IN 1959, THE ERROR WAS DISCOVERED. I WOULD POINT OUT THAT THIS ERRONEOUS SURVEY WAS NOT THE FAULT OF THE GOVERNMENT, BUT OF THE PRIVATE SURVEYOR. HOWEVER, THAT DOES NOT MEAN THAT THE PERSONS WHO THOUGHT THEY OWNED THIS LAND SHOULD NOT BE GIVEN THE OPPORTUNITY TO CLEAR TITLE. THEY CERTAINLY HAVE PAYED FOR IT THROUGH THE YEARS IN THE FORM OF TAXES.

AS I POINTED OUT EARLIER, MANY OF THESE PROPERTY OWNERS ARE ELDERLY, AND WANT TO CONVEY THIS PROPERTY TO THEIR HEIRS WITH CLEAR TITLE. I WOULD ALSO LIKE TO POINT OUT THAT THE STATE OF OREGON BLM OFFICE HAS ATTEMPTED TO REACH A SETTLEMENT WITH THE PROPERTY OWNERS BUT HAS BEEN UNABLE TO DO SO. THE BIGGEST STUMBLING BLOCK HERE, AS I UNDERSTAND IT, IS THE MATTER OF FAIR MARKET VALUE AS DEFINED IN FLPMA. SECTION 203 REQUIRES THAT SALES OF PUBLIC PROPERTY SHALL BE MADE AT A PRICE NOT LESS THAN

FAIR MARKET VALUE. I DO NOT QUIBBLE WITH THAT REQUIREMENT EXCEPT TO SAY THAT THIS PROPERTY HAS ALREADY BEEN PAID FOR AT FAIR MARKET VALUE IN THE FORM OF TAXES AND THAT THE PROPERTY IN DISPUTE HERE FALLS OUTSIDE OF THAT NARROW DEFINITION OF FLPMA.

MR. CHAIRMAN, I STRONGLY BELIEVE THAT THIS LAND SHOULD BE CONVEYED WITHOUT PREJUDICE AND I WOULD ASK THAT THE COMMITTEE STRONGLY CONSIDER REPORTING THIS BILL WITH THE AMENDMENT I HAVE ALREADY OUTLINED EARLIER IN MY TESTIMONY. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS THAT EITHER YOU OR ANY MEMBERS OF THE COMMITTEE MIGHT HAVE.

Senator **Wallop**. The first witness this morning, with great pleasure, is my colleague and the senior Senator from Arizona, Mr. Goldwater.

STATEMENT OF HON. BARRY GOLDWATER, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator **Goldwater**. Thank you, Malcolm.

Mr. Chairman, thank you for arranging this hearing on S. 626, the Aravaipa Canyon Wilderness Act.

I think I walked through that canyon first about 1932. The name as far as I can determine means small water or little water, and it probably comes from the Sobaipuri language.

My proposal would include Arizona's Aravaipa Canyon and an additional 2,626 acres of adjoining public lands in the National Wilderness Preservation System. President Reagan last fall recommended to Congress that this area be designated as wilderness.

The recommended 6,670 acres would become the first public lands under Bureau of Land Management jurisdiction to come under the protection of the wilderness system. In 1969 and 1971, the 4,044-acre, 7½-mile long canyon was set aside as the Aravaipa Primitive Area, creating BLM's first primitive area. Situated at the east and west entrances to the canyon is about 6,000 acres of land owned in fee by the Defenders of Wildlife Trust for the George Whittell Wildlife Preserve at Aravaipa Canyon, called Aravaipa Trust. The trust manages an additional 20,000 or more acres under

State and Federal grazing leases at the entrances to the canyon on the plateau south of the canyon.

The Bureau of Land Management holds title to the canyon itself. In accordance with the Federal Land Policy and Management Act of 1976, Aravaipa has undergone a wilderness study process and all the necessary steps have been taken, including an inventory with an environmental impact statement by BLM, and a mineral survey by USGS and the Bureau of Mines. This legislation, Mr. Chairman, is the result of the Bureau of Land Management, the Defenders of Wildlife, and the Aravaipa Trust working together over many, many years.

Established in August of 1974 by the Defenders of Wildlife, the Aravaipa Trust took title to these lands from the Defenders primarily to preserve the many species of wildlife in and around Aravaipa Canyon.

To accomplish this, it is necessary to protect the unique, complex desert and riparian habitats of the main canyon, its side canyons, and the canyon rims and plateaus from users which might harm their ability to sustain wildlife. Since early 1972 when Defenders of Wildlife first bought land at Aravaipa, Defenders and the trust have devoted a great deal of time and energy and over $3 million to purchasing, maintaining, and managing these lands.

Located in the east end of an arid portion of the Sonoran Desert, Aravaipa Canyon has been referred to as the miniature Grand Canyon of Arizona. Its beautiful multicolored cliffs rise as high as 1,000 feet above the canyon bottom. Within the canyon one can see a cross-section of Earth's history representing nearly 2.6 billion years, and in fact the canyon area has been inhabited for perhaps the past 9,500 years. Primary prehistoric remains include Hohokam and Salado sites. Indeed the Aravaipa Creek bottom was farmed in centuries past by the Sobaipuri Pima Indians who later integrated with the Papagos. The Apache Indians also frequented Aravaipa.

The Aravaipa Creek, a permanent stream running about 15 miles, provides water for wildlife and for 12 fish species, two of which are threatened and endangered. In the canyon one can find more than 158 species of bird and also Bighorn Sheep, mule deer, fox, mountain lion, coyotes, bobcats, javelina, and other small animals.

This scenic canyon is not only a haven for naturalists, but it offers many recreational opportunities—hiking, bird watching, horseback riding, whatever. The Bureau of Land Management currently limits the number of visitors to 50 per day in order to protect the area and entry into the canyon is by permit only. No motor vehicles or dogs are allowed.

Mr. Chairman, this is a very special place, and the private homeowners on the west end of the canyon would like to keep it that way while also protecting their land which would be adjacent to this wilderness area should this legislation pass Congress.

I would like to propose that report language be written to instruct the Bureau of Land Management to conduct rigorous planning with full community involvement for its future management of the area. While protection of the natural environment is of paramount importance, we want to be able to live in harmony with that protection.

That ends my testimony, Mr. Chairman. I urge your support of S. 626 which has a House companion bill, H.R. 2724, and if you have a chance, I would like to invite you to visit Aravaipa. It's a little bit of heaven.

Thank you.

[The prepared statement of Senator Goldwater follows:]

STATEMENT BY SENATOR BARRY GOLDWATER
S. 626, ARAVAIPA CANYON WILDERNESS ACT
MAY 17, 1983

Mr. Chairman, Thank you for arranging this hearing on S. 626, the Aravaipa Canyon Wilderness Act. My proposal would include Arizona's Aravaipa Canyon and an additional 2,626 acres of adjoining public lands in the National Wilderness Preservation System. President Reagan, last fall, recommended to Congress that this area be designated as wilderness.

The recommended 6,670 acres would become the first public land under Bureau of Land Management jurisdiction to come under the protection of the Wilderness System. In 1969 and 1971, the 4,044 acre, seven-and-a-half-mile long canyon was set aside as the Aravaipa Canyon Primitive Area, creating BLM's first primitive area. Situated at the east and west entrances to the Canyon is about 6,000 acres of land owned in fee by the Defenders of Wildlife Trust for the George Whittell Wildlife Preserve at Aravaipa Canyon ("Aravaipa Trust"). The Trust manages an additional 20,000 or more acres, under State and Federal grazing leases, at the entrances to the Canyon and on the plateau south of the Canyon. The Bureau of Land Management holds title to the Canyon itself.

In accordance with the Federal Land Policy and Management Act of 1976, Aravaipa has undergone a wilderness study process and all the necessary steps have been taken, including an inventory and an environmental impact statement by BLM and mineral survey by USGS and the Bureau of Mines.

This legislation is the result of the Bureau of Land Management, the Defenders of Wildlife, and the Aravaipa Trust working together over many years. Established in

August, 1974 by the Defenders of Wildlife, the Aravaipa Trust took title to these lands from the Defenders , primarily to preserve the many species of wildlife in and around Aravaipa Canyon. To accomplish this, it is necessary to protect the unique complex of desert and riparian habitats of the main canyon, its side canyons. and the canyon rims and plateaus from uses which might harm their ability to sustain wildlife. Since early 1972, when Defenders of Wildlife first bought lands at Aravaipa, Defenders and the Trust have devoted a great deal of time and energy, and over $3 million to purchasing, maintaining, and managing these lands.

Located in the east end of an arid portion of the Sonoran Desert, Aravaipa Canyon has been referred to as the miniature Grand Canyon of Arizona. Its beautiful multi-colored cliffs rise as high as 1,000 feet above the canyon bottom. Within the canyon, one can see a cross-section of earth's history representing nearly 2.6 billion years. And, in fact, the Canyon area has been inhabited for perhaps the past 9,500 years. Primary prehistoric remains include Hohokam and Salado sites. Indeed, the Aravaipa Creek bottom was farmed, in centuries past, by the Sobaipuri Pima Indians, who later integrated with the Papagos. The Apache Indians also frequented Aravaipa.

The Aravaipa Creek, a permanent stream running about 15 miles, provides water for wildlife and for 12 fish species, two of which are threatened and endangered. In the Canyon, one can find more than 158 species of bird and also bighorn sheep, mule deer, fox, mountain lion, coyotes, bobcats, javelina, and other small animals.

This scenic Canyon is not only a haven for naturalists, but it offers many recreational opportunities - hiking, bird watching, horseback riding, whatever. The Bureau of Land Management currently limits the number of visitors to 50 per day in order to protect the area and entry to the Canyon is by permit only. No motor vehicles or dogs are allowed.

Mr. Chairman, this is a very special place and the private homeowners on the west end of the Canyon would like to keep it that way, while also protecting their land which would be adjacent to this wilderness area should this legislation pass Congress. I would like to propose that report language be written to instruct the Bureau of Land Management to conduct rigorous planning, with full community involvement, for its future management of the area. While protection of the natural environment is of paramount importance, we want to be able to live in harmony with that protection.

That ends my testimony, Mr. Chairman. I urge your support of S. 626, which has a House companion bill, H.R. 2724, and if you have a chance, you should visit Aravaipa. It's a little bit of heaven in my State of Arizona.

Senator **WALLOP**. Barry, if I visited there, I want to know what the "whatever" is.

Senator **GOLDWATER**. Well, besides the Aravaipa we have a little bigger one called the Grand Canyon, and we have some smaller ones. I can stay here all day.

Senator **WALLOP**. I'm sure you could.

Senator **GOLDWATER**. I can also get you a horse.

Senator **WALLOP**. Have you got any burros in Aravaipa?

Senator **GOLDWATER**. We've got more damn burros than we know what to do with—not at Aravaipa, no. We kept them out of there.

Senator **WALLOP**. You sealed it off before they get in.

Senator **GOLDWATER**. They are only in the Grand Canyon.

Senator **WALLOP**. The burros respect wilderness boundaries?

Senator **GOLDWATER**. The burros love wilderness. They eat it.

Senator **WALLOP**. Tony informs me this is a highly desirable piece of legislation. There appear to be no problems, and I think your suggestion as to report language, I don't believe that if we suggest that there should be any problem, and it is wise when you start dealing with new plan classifications, especially ones that affect private citizens. I don't think we'll have any problem.

Senator **WALLOP**. Thank you very much.

Senator **GOLDWATER**. Thank you very much.

Senator **WALLOP**. I have a statement by your colleague, Senator DeConcini for the record.

Senator **GOLDWATER**. It's a good statement.

[The prepared statement of Senator DeConcini follows:]

STATEMENT BY SENATOR DENNIS DeCONCINI

BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE ON ARAVAIPA WILDERNESS, S. 626

Mr. Chairman, I am a cosponsor of the Aravaipa Canyon Wilderness Act and am pleased that the Committee has taken this time to consider the measure.

As you know, the Aravaipa Canyon is presently a BLM Primitive Area and as such was subject to an instant study for possible designation as a wilderness area during the BLM wilderness review process. Last year the Department of the Interior completed its study of the primitive area and adjacent lands and recommended that this area be added to the Federal wilderness system.

The Aravaipa Canyon is truly one of the most unique areas in the Southwest. This bill will designate approximately 6,670 acres of land surrounding the Canyon as wilderness to properly protect the delicate nature of this area for generations to come. The Canyon contains significant scenic, geologic, and historical values which have been relatively undisturbed by man. The area is also home to many fish and wildlife species such as bighorn sheep, mule deer, mountain lions, many small mammals and endangered fish which inhabit the perennially flowing stream that cuts through the Canyon. The Canyon is not only important to Arizonans, but has been nationally recognized as one of the most outstanding fragile, and at the same time rugged natural areas in the country. There is no doubt in my mind that its protection under the federal wilderness designation is the best method to insuring the preservation of this area so that it may be enjoyed by future generations of Americans.

Mr. Chairman, as you probably know, there is a strong consensus among industry and the environmental community that this area displays all of the characteristics and qualities for wilderness and should be so protected.

While the Aravaipa Canyon is an important natural area which should be designated wilderness by the Congress, there are many other areas in my state of Arizona also deserving of wilderness consideration. Mr. Chairman, the citizens of Arizona have sent to me their overall proposal for the Forest Service's RARE II wilderness recommendations and have asked that we consider a broad wilderness bill for Arizona this Congress. The "Citizen's Proposal" contains RARE II areas that possess scenic, geologic, historical and recreational values, many of which are untouched, remote and wild which should be preserved to protect the roadless Forest Service lands within my state and complete, at least for the time being, this segment of wilderness study in Arizona. Although the Congressional delegation has not yet sponsored legislation on the "Citizen's Proposal" we are in the process of reviewing areas which should be considered for wilderness and I would prefer to see Aravaipa considered in the much broader context.

Mr. Chairman, while there is no question about the value of placing Aravaipa under the protection of wilderness, many other spectacular areas within Arizona are of equal wilderness value but some no doubt may present controversy and reaching a broad consensus will not be an easy task. When a final measure is introduced, Mr. Chairman, it is my hope that the committee can allot some time to bringing an end to the continuing RARE II controversy by recommending RARE II proposals for wilderness in Arizona.

Senator **Wallop**. Next is the Honorable Garrey Carruthers, Assistant Secretary for Land and Water Resources, and Frank Edwards.

If you want, why don't you just do all of it, all of the testimony that you have? I think we can probably let you go after that.

Mr. **Carruthers**. OK, Mr. Chairman. Thank you very much. I will submit a written statement for the record on the Bisti Wilderness, and Mr. Edwards with me also has, he has a witness statement that he would like to submit for the record.

Senator **Wallop**. Those will be accepted into the record.

STATEMENT OF HON. GARREY E. CARRUTHERS, ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR

Mr. **Carruthers**. Mr. Chairman, I share Senator Goldwater's enthusiasm for Aravaipa Canyon being named the first wilderness area in the Bureau of Land Management system. We eagerly support that proposition and look forward to President Reagan being able to sign that in the very near future.

I would like to discuss another proposal for a wilderness area, Senate bill 285 that deals with the Bisti Wilderness Area supported by Senators Domenici and Bingaman from New Mexico.

I am quite familiar with this territory, having grown up 30 miles north of the Bisti area, 30 or 40 miles. I am cognizant of its geological, paleontological characteristics, and that they are unique. I am also very familiar with the solitude that you can get in that part of the country. It is quite remote.

I would like to call to the attention of the committee, however, that one of the things that the BLM has to concern itself with in a wilderness study area process is the kind of tradeoffs that must be made as we designate areas for wilderness, and therefore preclude certain multiple-use activities. My staff has provided, Senator, for me an analysis of the Bisti coal resources that underlie the approximately 4,000 acres of land that would be designated as wilderness area, and I think it is important that we have in the record a recognition that in Bisti there are over 158 million short tons of coal underlying that area, and my staff has advised me that the value of coal in Bisti, based on a selling price of $20 a ton, is approximately $3.16 billion, so we need to always be aware as we go through this wilderness process that the BLM will be obligated to look at these tradeoffs, and the mineralized tradeoffs are going to be difficult for us to make, but not impossible.

There are times when wilderness can certainly be justified over the development of minerals.

Senator **Wallop**. Are those proven reserves or estimated reserves, a ballpark figure?

Mr. **Carruthers**. These are inplace resources. Recoverable reserves in this area are estimated at 90 million tons.

The point I am trying to make, Mr. Chairman, is that as we go into the wilderness process which we are entering right now with these two propositions, we will from time to time have to indicate the mineralized tradeoffs that will occur as a result of designation of wilderness.

Now there are some other concerns I have with the Bisti area. The Bisti is very sensitive. It is close to Farmington, N. Mex. There is a good road down there. I would guess it is 30, 35 miles, and the area is quite small and the geological features are very sensitive, and I am concerned that perhaps the Bureau of Land Management will have to impose some stricter standards with regard to entry and use of that particular wilderness area vis-a-vis our larger and less sensitive wilderness areas. This is not an area that ought to have a great amount of traffic because its unique qualities are more scientific than they are for those who just want to see the quality, and so we are concerned and are prepared to address that question should this be designated as a wilderness area.

I am also concerned and I want to point out for the committee that the Bureau of Land Management has spent approximately $50 million in the WSA process which was required by Congress, and designating Bisti as a wilderness area in advance of the completion of that process we cannot support. We would be hopeful that in the future we will move as expeditiously as we possibly can, but there is some valuable information and considerable public comment that have gone into these proposals, and we would be hopeful that we could generate those reports for the committee prior to too much designation of future wilderness areas.

Senator WALLOP. When might—I mean there will be some obvious delay, but there is a certain amount of support for it that you can identify for such as Bisti. When might we expect a report out of that on such areas as Bisti?

Mr. CARRUTHERS. We are in the comment period for the environmental impact statement for the San Juan Basin now, and that comment period will end when, Frank? Do you recall?

The comment period has ended and we are in analysis now, so a report on this will be coming forward I think from the state BLM in a very short period of time. I don't know, probably 2 or 3 months. In June they tell me.

The last comment that I would like to make on the Bisti proposition is that section 6 refers to the De-Na-Zin WSA, and it is not clear to us the reason for section 6. Section 6 continues to, refers to De-Na-Zin continuing to be studied as a WSA. We are continuing to do that. We have no plans whatsoever not to do that, and it is unclear to us why that particular section was included in this proposition.

Mr. Chairman, the evidence is, from talking to industry, from looking at our preliminary environmental impact statement, and from the public comment period, that the Bisti Wilderness Area should be designated as such, and we would support that proposition. We would hope that the committee would reflect upon our concerns with regard to the process.

[The prepared statement of Mr. Carruthers follows:]

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STATEMENT OF GARREY E. CARRUTHERS, ASSISTANT SECRETARY, LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 285, A BILL "TO DESIGNATE THE BISTI BADLANDS WILDERNESS IN THE STATE OF NEW MEXICO."

It is a pleasure to appear before the subcommittee this morning to discuss the Department of the Interior's views on S. 285.

S. 285, which would be cited as the Bisti Badlands Wilderness Act, would designate as wilderness, and as a component of the National Wilderness Preservation System, approximately 3,968 acres of public lands in San Juan County, New Mexico. The area would be administered by the Secretary of the Interior in accordance with the wilderness management provisions of the Wilderness Act of 1964. The bill provides that prior to the promulgation of rules providing for administration of the area as wilderness, the Bisti Badlands Wilderness shall be administered under regulations of the Secretary of the Interior applicable to designated primitive areas to the extent consistent with S. 285.

Under Section 6 of S. 285, the De-na-zin area, comprising 19,922 acres of public land in San Juan County, New Mexico, would be "subject to review and designation as a wilderness study area as provided in section 603 of the Federal Land Policy and Management Act of 1976, until March 1, 1985."

The Bisti Badlands is a visually spectacular area comprised of a number of unusual land forms. Mushroom-shaped rock formations, pinnacles and spires shaped by natural forces create a "moonscape" appearance.

In addition to the geologic formations, exposed petrified logs and stumps and the remains of prehistoric animals are common. The Bisti area contains 175 fossil localities. Of these localities, 2 are considered critical and 14 are highly important. Because of presence of scientifically valuable remains of vertebrates, invertebrates and plants, the area has become internationally prominent for paleontological studies.

Other resources of interest to a variety of disciplines are a lithic site that has been nominated for inclusion in the National Register of Historic Places, and sites that are sacred to the Navajo Indians.

There are many species of mammals and birds found in the Bisti area, and there is at least one active golden eagle nest in the area.

Recreational uses of the lands include activities such as hiking, sightseeing, photography, collecting plant fossils, and collecting petrified wood in certain areas.

As you know, the Bisti area was removed from wilderness study category under section 603 of the Federal Land Policy and Management Act as a result of the December 30, 1982, Secretarial order that following decisions of the Interior Board of Land Appeals concerning such areas. Those decisions held that tracts of less than 5,000 acres did not belong under section 603. However, almost immediately thereafter the area was identified for wilderness study and suitable interim protection under section 202 of the Federal Land Policy and Management Act. An application for withdrawal of the area has been filed and the lands are segregated from entry under the public land laws and the mineral laws. The lands are under the interim protection provided by section 302 of the Federal Land Policy and Management Act.

The Bureau of Land Management is presently conducting a comprehensive study of the area. A draft environmental impact statement was published on November 30, 1982. Two hundred and eleven separate comments were received from 444 persons who commented orally or in writing on the statement. These are presently being reviewed and evaluated. The New Mexico State Director's finding and the preliminary final environmental impact statement will be submitted in June 1983. To date, approximately $142,500 has been spent on studying the Bisti. To date approximately $49,756,000 has been spent in the BLM wilderness study and review process. This figure includes funds expended in conducting wilderness inventory studies and mineral surveys.

Frankly, we believe it is premature for Congress to be considering legislation for wilderness designation prior to completion of the wilderness study process and the opportunity to review its findings. The study process was mandated by Congress in the Federal Land Policy and Management Act. It would be more appropriate for Congress to allow the study process to be completed and then to consider legislation based on the information developed in the studies. Otherwise, the vast expenditure of money for the wilderness study process on public lands would seem to be a waste.

We have one technical problem with S. 285. We do not understand the purpose of section 6 of the bill. The De-na-zin site is already being studied by BLM under section 603 of the Federal Land Policy and Management Act for wilderness designation. Recommendations on it will be coming to Congress in due course. Thus, we see no need to enact additional legislation to require that the area be subject to review and designation as a wilderness area under section 603 of the Federal Land Policy and Management Act. We urge that section 6 be deleted.

This concludes my prepared statement. I will be happy to respond to your questions.

Senator **Wallop**. Thank you very much, Garrey. I guess these are the only comments that the Department has this morning?

Mr. **Carruthers**. We have two propositions, Mr. Chairman, which we oppose that I believe are on your agenda this morning, and Mr. Edwards will speak to those.

Senator **Wallop**. OK. Go ahead, Frank.

Mr. **Carruthers**. I bring Mr. Edwards to speak in opposition. I speak only in support of the proposition, Senator.

Mr. **Edwards**. Senator, we were prepared also to give testimony on Aravaipa Canyon. Would you like to take that up now?

Senator **Wallop**. That statement I gather is a reflection of what Mr. Carruthers said?

Mr. **Edwards**. Yes. We will go on.

Senator **Wallop**. In the interests of time we can accept it for the record unless there is some recommendation you would like to bring to the Chair's attention.

Mr. **Edwards**. No, sir. We support it.

[The prepared statement of Mr. Edwards on S. 626 follows:]

MAY 17 1983

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 626, A BILL "TO DESIGNATE THE ARAVAIPA CANYON WILDERNESS IN THE STATE OF ARIZONA."

I appreciate the opportunity to appear before the subcommittee this morning to discuss the Administration's views on S. 626.

S. 626 would designate approximately 6,670 acres of public lands in Graham and Pinal Counties, Arizona, as the Aravaipa Canyon Wilderness, and a component of the national wilderness preservation system. If S. 626 is enacted, the lands would be administered by the Secretary of the Interior in accordance with the wilderness management provisions of the Wilderness Act of 1964. Prior to promulgation of rules and regulations providing for the administration of Aravaipa Canyon as a wilderness, the lands would be administered in accordance with the non-impairment rules and regulations of the Department of the Interior applicable to all areas under review for wilderness to the extent these regulations are consistent with the provisions of S. 626.

This bill was introduced after President Reagan and Secretary Watt recommended to the Congress that Aravaipa Canyon be designated as wilderness. This is the process spelled out in section 603 of the Federal Land Policy and Management Act.

Aravaipa Canyon is an outstanding natural area of many contrasts. A gem of the southwestern desert, the Canyon landscape consists of high mesa-like cliffs through which courses a free flowing stream that provides lush vegetation and a habitat for birds and animals that are seldom seen in the surrounding desert. Opportunities abound for scientific study, wildlife observation, photography and primitive recreation. These values have long been recognized by both the Bureau of Land Management and the Department of the Interior -- approximately 4,000 acres of the now proposed wilderness were previously designated as the Aravaipa Canyon Primitive Area on January 6, 1969, and April 28, 1971.

Mineral surveys conducted by the Department of the Interior indicate that the proposed wilderness area contains no significant mineral deposits. We believe that designation of the Aravaipa Canyon area will result in no adverse impacts on the Nation's security, mineral needs, or economic well being.

The Administration's recommendation that Aravaipa Canyon be designated as wilderness is a result of the wilderness study required by section 603 of the Federal Land Policy and Management Act of 1976. Public hearings were held in November 1979. In addition, all interested elected officials were notified of the proposed recommendation. There have been no major objections to the recommended action from any of those officials.

Mr. Chairman, we know of no basis for opposition to this bill, and we heartily recommend that it be enacted.

I would be happy to answer any questions you may have on the bill.

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. EDWARDS. The next item I have on my agenda here is for S. 862, to amend the act of May 31, 1962, which authorizes the Secretary of the Interior to sell at his discretion at appraised fair market value certain omitted lands located in the vicinity of the Snake River in Idaho.

In addition, section 2 of the act of 1962 gives a preference right to prospective purchases who had improved, cultivated, or occupied the lands before May 31, 1961, under color of title or as a riparian owner or whose ancestor or predecessor in title had taken such action. The first section of S. 862 would amend section 2 of that act in several ways.

First, it would require that the purchase price of any lands sold under that act be established on the basis of fair market value of the lands as of May 31, 1967.

Second, an applicant claiming a preference right under section 2 would be required to file an application for such right within 1 year of the date of approval of S. 862 in accordance with regulations to be promulgated by the Secretary of the Interior.

We have no objections to setting the period of time for the filing, but we do object to provision for setting the pricing under the act back to 1967. The act of May 31, 1962, was enacted in an effort to resolve a variety of longstanding problems involving lands adjacent to the Snake River. The first surveys of the meander lines of both the South Fork and Henry's Fork of the Snake River were made between 1870 and 1890. After several years it became apparent that the meander survey along portions of the river did not follow its actual course, and early settlement of the area was concentrated along the river.

A reconnaissance survey of the river was conducted in 1922. The surveyor reported the existence of much unsurveyed land between the originally established meander line and the actual course of the river. Subsequent limited surveys were conducted at critical points along the river, but it was not until 1957 that a comprehensive survey of the area was initiated.

In 1962 the act gave the Secretary of Interior the authority to offer the omitted lands for sale at their fair market value. The act also authorizes the Secretary to reserve the right to public access and such other reservations across the lands as is deemed appropriate and consonant with the public interest in preserving public recreational values along the lands.

On March 12, 1971, the Bureau of Land Management suspended action on the omitted lands pending congressional consideration of a proposed amendment to the 1962 act. The suspension was vacated on September 24, 1971, as to those claims where the claimant expressed a desire to proceed under existing law and regulations, and on November 19, 1972, the suspension on processing claims was lifted entirely.

The omitted lands sales program is 95 percent complete, and only 350 acres remain to be sold. These lands have not been sold for a variety of reasons. Some occupants have opposed the U.S.

characterization of the lands as public lands and have initiated litigation to resolve the question.

Other people have objected to paying the current fair market value of the land. The remaining 350 acres represent some of the most valuable omitted lands. They include 250 acres of farmland valued at approximately $250 per acre, and 100 acres of commercial land valued at $10,000 per acre. Thus the total land value of the lands remaining to be sold is approximately $1,062,500.

We support the provisions of S. 862 that would require claimants to file within 1 year, and we do not object to the 2-year deadline for completion of sales.

We also support section 2 of the bill which specifies that previous purchasers would not be entitled to reimbursement for moneys paid for omitted lands purchased prior to the enactment of S. 862.

However, we object to the provision in the proposed new section 2(a) which would allow preference right holders to purchase omitted lands at fair market value as of May 31, 1967. This would grant a windfall to remaining purchasers of the 5 percent of the land not yet sold. It also would be inequitable to previous buyers who paid fair market value as of the date of the purchase. Finally, the provision would be unfair to the general public for whom the public lands are held in trust and managed by the Department of the Interior since it would require sale prices substantially below the fair market value of about $1 million.

We believe that the fairest approach to calculating the fair market value is as of the date the lands are sold. Therefore, we recommend that proposed section 2(a) of the act of 1962 be amended to require holders of preference rights to purchase omitted lands at their fair market value as of the date of sale. We would be happy to work with members of the subcommittee staff to develop appropriate language for the amendment. With that amendment, section 2 of S. 862 could be deleted in its entirety.

That is the end of my statement on that one.

[The prepared statement of Mr. Edwards on S. 862 follows:]

MAY 17 1983

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 862, A BILL "TO AMEND THE ACT OF MAY 31, 1962 (76 STAT. 89)."

I appreciate the opportunity to appear before the subcommittee this morning to present the Department of the Interior's views on S. 862.

S. 862 would amend the Act of May 31, 1962, which authorizes the Secretary of the Interior to sell at his discretion, at appraised fair market value, certain omitted lands located in the vicinity of the Snake River in Idaho. In addition, section 2 of the 1962 Act gives a preference right to prospective purchasers who had improved, cultivated, or occupied the lands before May 31, 1961 under color-of-title or as a riparian owner, or whose ancestor or predecessor in title had taken such action.

The first section of S. 862 would amend section 2 of the 1962 Act in several ways. First, it would require that the purchase price of any lands sold under the 1962 Act be established on the basis of the fair market value of the lands as of May 31, 1967. Second, any applicant claiming a preference right under section 2 would be required to file an application for such right within 1 year of the date of approval of S. 862, in accordance with regulations to be promulgated by the Secretary of the Interior. Any person claiming a preference right for omitted lands whose existence is disclosed by surveys completed after the effective date of the Act would be required to file an application within 1 year of notice that the land has been found to be omitted. Failure to file the required applications within the 1-year period would constitute an abandonment of the preference right. The preference right would then expire, could not be reasserted, and the provisions of the first section of the 1962 Act would apply. Third, the Secretary would be required to complete all sales authorized by section 2 of the 1962 Act, as amended, within 2 years after receiving application for such lands.

Section 2 of S. 862 provides that nothing in S. 862 or in any amendment to the 1962 Act shall be deemed to create a right or equity in any person for reimbursement of money paid for lands acquired under the 1962 Act prior to enactment of this legislation.

We would not object to enactment of S. 862 if it is amended as we suggest.

The Act of May 31, 1962, was enacted in an effort to resolve a variety of longstanding problems involving lands adjacent to the Snake River. The first surveys of the meander lines of both the South Fork and Henry's Fork of the Snake River were made between 1870 and 1890. After several years it became apparent that the meander survey along portions of the river did not follow its actual course. Early settlement of the area was concentrated along the river, taking advantage of readily available water that was required for irrigation. As more intensive settlement and development took place, many controversies developed over ownership of the lands abutting the river.

A reconnaissance survey of the river was conducted in 1922. The surveyor reported the existence of much unsurveyed land between the originally established meander line and the actual course of the river. Subsequent limited surveys were conducted at critical points along the river, but it was not until 1957 that a comprehensive survey of the area was initiated. That survey established the mean high water line of the river. The lands between the original survey and the latter survey, the lands that are called omitted lands, were determined to still be in the public domain, with title vested in the United States.

The 1962 Act gave the Secretary of the Interior the authority to offer the omitted lands for sale at their fair market value. The Act also authorized the Secretary to reserve the right of public access and such other reservations across the lands as deemed appropriate and consonant with the public interest in preserving public recreational values in the lands.

On March 12, 1971, the Bureau of Land Management (BLM) suspended action on the omitted lands' claims pending congressional consideration of a proposed amendment to the 1962 Act. The suspension was vacated on September 24, 1971, as to those claims where the claimant expressed a desire to proceed under existing law and regulations. On November 19, 1972, the suspension on processing claims was lifted entirely.

The omitted lands sales program is 95% complete, and only 350 acres remain to be sold. Those lands have not been sold for a variety of reasons. Some occupants have opposed the United States' characterization of the lands as public lands and have initiated litigation to resolve the question. Other people have objected to paying the current fair market value of the land.

The remaining 350 acres represent some of the most valuable omitted lands. They include 250 acres of farmland valued at approximately $250 per acre, and 100 acres of commercial land valued at $10,000 per acre. Thus, the total value of all lands remaining to be sold is approximately $1,062,500.

We support the provisions of S. 862 that would require claimants to file applications within 1 year, and we do not object to the 2-year deadline for completion of sales. We also support section 2 of the bill, which specifies that previous purchasers would not be entitled to reimbursment for moneys paid for omitted lands purchased prior to the enactment of S. 862.

However, we object to the provision in proposed new section 2(a) which would allow preference right holders to purchase omitted lands at their fair market value as of May 31, 1967. This would grant a windfall to the remaining purchasers of the 5 percent of the land not yet sold. It also would be inequitable to previous buyers who paid fair market value as of the date of their purchases. Finally, the provision would be unfair to the general public, for whom the public lands are held in trust and managed by the Department of the Interior, since it would require sale prices substantially below the fair market value of about $1 million. We believe the fairest approach is to calculate the fair market value as of the date that the lands are sold.

Therefore, we recommend that proposed section 2(a) of the Act of 1962 be amended to require holders of preference rights to purchase omitted lands at their fair market value as of the date of sale. We would be happy to work with members of the subcommittee staff to develop appropriate language of amendment. With that amendment, section 2 of S. 862 could be deleted in its entirety.

I would be happy to answer any questions on this bill.

Senator **Wallop**. Thank you, Frank. This little philosophical tug of war on the values of the land, I can see why if somebody litigated to acquire those lands without purchase, that was a choice that they made, but the others, does BLM have no responsibility at all in the fact that those lands were not sold?

Mr. **Edwards**. The remaining 350 acres?

Senator **Wallop**. Yes.

Mr. **Edwards**. Well, we have authority to sell those lands. It has simply been delayed over the years because of various litigation and proposals to amend the act.

Senator **Wallop**. But I mean your position is that none of those remaining lands could have been sold expeditiously and by a BLM that was willing to do it?

Mr. **Edwards**. They were subject to litigation, and also we suspended action because of possible legislation, and in some cases objections to sales.

Senator **Wallop**. When I phrased that question, I said all right, somebody litigates and says I don't have to pay anything for it. They take themselves out of the process, but those that were not litigated, isn't it appropriate that those have that 1967 value?

Mr. **Edwards**. It is my understanding that we have already transferred those lands to those individuals who did not litigate; 95 percent of what we have has been transferred, has been sold.

Senator **Wallop**. But is it your position then that the 350 acres was all litigated? Why don't you supply it for the record? That's hard to pull out of the sky, but if you would submit it for the record?

Mr. **Edwards**. On how much was litigated on?

Senator **Wallop**. Yes, that 350 acres; if it was litigated that's another story, but if it wasn't litigated, it was just because people couldn't get a decision, then I think that the earlier date is probably appropriate.

Mr. **Edwards**. Some of that, of course, the individuals may have delayed filing applications to find out how the litigation was going to go.

Senator **Wallop**. I don't think it is appropriate for government to second-guess motives. I mean that may well have been the case, but it may well have not been the case. It wouldn't be unique.

Mr. **Edwards**. We will supply that for the record, sir.

[The requested information follows:]

Approximately 70 acres were the subject of litigation. After the Court ruled in favor of the United States, the lands were offered for sale but the offer was not accepted. All 350 acres were offered for sale and applications filed on them but the applicants did not buy the lands because they were not satisfied with the price.

Senator **Wallop**. Thank you, and I appreciate your testimony, and your next item is 1042.

Mr. **Edwards**. Yes, sir. S. 1042 would authorize the Secretary of the Interior to convey certain real property in Lane County, Oreg., without consideration to any person claiming to be deprived of such property as a result of a particular BLM resurvey.

All right, title and interest of the United States to such property could be conveyed if an application accompanied by such proof of title, description of land, and other information as the Secretary of the Interior may require is received by the Secretary within 5 years of enactment of the bill.

We oppose enactment of S. 1042. In 1959, the BLM resurveyed the lands in Lane County, Oreg., correcting errors in a 1941 private survey of a portion of this tract. The BLM resurvey indicated that the private surveyor had not used proper public lands surveying techniques or followed the official survey made in 1873. These errors resulted in encroachments onto Federal lands by adjacent owners.

S. 1042 would convey the property encroached upon to these adjacent owners. The title defects affecting the beneficiaries of this legislation were caused because of the developers of the tract and subsequent purchasers relied on an inaccurate private survey. The defects of this title were not caused by an act of the United States.

There was never any question as to the accuracy of the survey by the Federal Government. To require the United States to convey public lands to persons who rely on erroneous private surveys is not in the public interest. It would require the American public generally to compensate an individual for a mistake that was either his alone or that of his predecessor in interest.

Moreover, enactment of this legislation would create the undesirable precedent of encouraging other persons who do not verify the validity of the title they are seeking to acquire to assert claims for conveyance at no charge of the Federal lands on which they are encroaching. These claims would hinder effective public land management.

The encroachments that are the subject of S. 1042 can be more appropriately resolved through existing BLM land conveyance authority than through the special legislation. Under existing law, the Secretary can convey public lands once the planning requirements of the Federal Land Policy and Management Act have been met. Section 203 of that act authorizes competitive sales of parcels of public lands if certain disposal criteria are met.

The Secretary may also under proper circumstances sell land without competitive bidding or with modified competitive bidding, recognizing equitable considerations of public policies. BLM's Oregon State office has reported that the tract subject to this bill meets the first criterion in section 203(a)(1) of FLPMA that such tract, because of its location or other characteristics, is difficult and uneconomical to manage as part of the public lands, and is not suitable for management by another Federal department or agency.

The Oregon State office further reported that disposal of the land would not adversely affect BLM land and resource management programs. The tract in question could be sold by direct sale.

Therefore, we would not object to conveying the tract through normal administrative means if fair market value were paid for it. This would be in accordance with section 203 of the Federal Land Policy and Management Act which provides that sales of public lands can be made at a price not less than fair market value of the lands as determined by the Secretary. It is a long standing congressional policy that the United States receive fair market value for the conveyance of public lands.

We would like to point out that the BLM Oregon State office has informally offered to sell these lands to the occupants. Some have refused to pay fair market value. Others such as the telephone company have indicated their willingness to pay fair market value in order to obtain title to the land they occupy.

In summary, S. 1042 is inconsistent with the policy of requiring fair market value for conveyance of Federal lands. There was no error in the survey by the United States. Instead the problem arose because of an improper private survey. There is, therefore, no justification for legislating a conveyance of this tract without payment of fair market value or for bypassing administrative procedures that already exist for conveyance of public lands in appropriate cases.

Although we are opposed to enactment of this bill, we note that it has some technical inadequacies such as giving an erroneous date for the BLM survey. We will be glad to discuss these with subcommittee staff.

[The prepared statement of Mr. Edwards on S. 1042 follows:]

MAY 17 1983

STATEMENT OF FRANK A. EDWARDS, ASSISTANT DIRECTOR, LAND RESOURCES, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 1042, A BILL "TO CONVEY CERTAIN LANDS IN LANE COUNTY, OREGON."

I appreciate the opportunity to appear before the subcommittee this morning to discuss S. 1042.

S. 1042 would authorize the Secretary of the Interior to convey certain real property in Lane County, Oregon, without consideration, to any person claiming to have been deprived of such property as a result of a particular Bureau of Land Management (BLM) resurvey. All right, title, and interest of the United States to such property could be conveyed if an application, accompanied by such proof of title, description of land, and other information as the Secretary of the Interior may require, is received by the Secretary within 5 years after enactment of the bill.

We oppose enactment of S. 1042.

In 1959, BLM resurveyed the lands in Lane County, Oregon, correcting errors in a 1941 private survey of a portion of this tract. The BLM resurvey indicated that the private surveyor had not used proper public lands surveying techniques or followed the official survey made in 1873. These errors resulted in encroachments onto Federal land by adjacent owners. S. 1042 would convey the property encroached upon to these adjacent owners.

The title defects affecting the beneficiaries of this legislation were caused because the developers of the tract and subsequent purchasers relied on an inaccurate private survey. The defects in their title were not caused by any act of the United States.

There was never any question as to the accuracy of the survey by the Federal Government.

To require the United States to convey public lands to persons who rely on erroneous private surveys is not in the public interest. It would require the American public generally to compensate an individual for a mistake that was either his alone or that of his predecessor in interest. Moreover, enactment of this legislation would create the undesirable precedent of encouraging other persons who do not verify the validity of the title they are seeking to acquire to assert claims for conveyance, at no charge, of the Federal lands on which they are encroaching. These claims would hinder effective public land management.

The encroachments that are the subject of S. 1042 can be more appropriately resolved through existing BLM land conveyance authority than through special legislation. Under existing law, the Secretary can convey public lands once the planning requirements of the Federal Land Policy and Management Act have been met. Section 203 of that Act authorizes competitive sales of parcels of public lands if certain disposal criteria are met. The Secretary may also, under proper circumstances, sell land without competitive bidding or with modified competitive bidding, recognizing equitable considerations or public policies. BLM's Oregon State Office has reported that the tract subject to this bill meets the first criterion in section 203(a)(1) that:

> such tract because of its location or other characteristics is difficult and uneconomical to manage as part of the public lands, and is not suitable for management by another Federal department or agency.

The Oregon State Office further reported that disposal of the land would not adversely affect BLM land and resource management programs. The tract in question could be sold by direct sale.

Therefore, we would have no objection to conveying the tract through normal administrative means, if fair market value were paid for it. This would be in accordance with section 203 of the Federal Land Policy and Management Act which provides that sales of public lands shall be made at a price not less than the fair market value of the lands as determined by the Secretary. It is long-standing congressional policy that the United States receive fair market value for the conveyance of public lands.

We would like to point out that the BLM Oregon State Office has informally offered to sell these lands to the occupants. Some have refused to pay fair market value. Others, such as the telephone company, have indicated their willingness to pay fair market value in order to obtain title to the land they occupy.

In summary, S. 1042 is inconsistent with the policy of requiring fair market value for conveyance of Federal lands. There was no error in the survey by the United States. Instead, the problem arose because of an improper private survey. There is, therefore, no justification for legislating a conveyance of this tract without payment of fair market value or for bypassing administrative procedures that already exist for the conveyance of public land in appropriate cases.

Although we are opposed to enactment of this bill, we note that it has several technical inadequacies, such as giving an erroneous date for the BLM survey. We will be glad to discuss these with subcommittee staff.

I would be pleased to respond to any questions that the subcommittee may have.

Senator WALLOP. I wonder if you would provide for the record your estimate of the fair market value and administrative cost?

Mr. EDWARDS. Yes, sir, I will.

[The requested information follows:]

The estimated fair market value of the lands in question, as of July 1982, is $45,700. The administrative costs would include the preparation of a supplemental plat by a survey crew—approximately $8,000; and the clerical work involved in issuing patents—$1,500.

Senator WALLOP. I have as well a statement from Senator Hatfield with regard to S. 1042 and a statement from Senator McClure with regard to the Snake River lands which should be inserted in the record in advance of the testimony on those bills.[1]

There is one thing that bothers me a little bit and the rest of the business world. Setting aside this great monster called Government, you have an obligation to protect your own land, and if an inaccurate survey encroaches upon your land, your obligation is pretty much immediate.

The rest of the world, in most States at least, can adversely possess after a period of time, and that ought to be something that the Government can take into account. These provisions for fair market value are there for reasons different than this, and I do not believe that we ought to have it so grounded in marble like all the rest of the situations around here that there is no judgment that can be made as to matters of fairness and equity.

I have a little bit of a hard time thinking that somebody has built—I was looking at Senator McClure's testimony, for example—built on the bluff above the river a long time ago, thinking that they had title, having paid taxes on that title for the State in which they were, and the same thing with these lands, only to find that at some later date the Government asserts a claim either by resurvey or—even though I grant that, and Senator Hatfield grants it was not the Government's fault. The Government still as a land manager, a possessor of interest, has an obligation to be a little more immediate than they sometimes are, so I would guess that there might be perhaps a more flexible attitude on some of these things than just to say FLPMA requires we get fair market value.

I know you also have the obligation to follow the laws of the land, but if there is an opportunity to change the law in an equitable fashion for the purpose of relieving a problem that was not an intentional encroachment, then perhaps the rigid obligation, I mean rigid opposition that arises—it is not going to solve the national debt to take care of a couple hundred acres of ground, and it does lots for the way the public views its Government when there is a continuing mistake.

I am not talking about somebody who is seeking to buy an identified 40 acres of BLM land under the other provisions of the act or something like that. At any rate, I will ask the staff to converse with you on those problems and if you could supply for the record those figures that we want I would appreciate it.

Mr. EDWARDS. All right.

Senator WALLOP. Thank you both very much. Now the next is a panel on S. 626—Sherm Cawley, the Sierra Club, Grand Canyon chapter, Phoenix; Mr. John McComb, the Washington office of the Sierra Club; Alison Horton, associate legislative director of the National Audubon Society; Toby Cooper, the programs director of the Defenders of Wildlife; and, Mr. Cooper, I suggest we lead off with you.

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[1] The statements appear following the texts of the bills on p. 15.

STATEMENT OF TOBY COOPER, PROGRAMS DIRECTOR, DEFENDERS OF WILDLIFE

Mr. Cooper. Thank you very much, Senator. I am here today representing the Defenders of Wildlife, which is a national nonprofit conservation organization devoted to representing the best interests of wildlife.

We thank Senator Goldwater very much for bringing this issue to a hearing and yourself as well for presiding today and devoting your time to this legislation.

Wilderness and wildlife advocates nationwide have been awaiting the opportunity to see which area will become the lead designation for BLM wilderness, and a more fitting choice could not be found. Aravaipa Canyon north of Tucson, Ariz., is an area with nationally significant wilderness and wildlife value.

The canyon is not large. It is easily explored in 1 day. A 12-mile hike takes you from one end to the other. The canyon is narrow. The walls are less than a quarter of a mile apart and in most cases, often less than that. It virtually echos in places.

The permanent stream which flows through the canyon provides a unique lifeline in an otherwise arid environment of the American Southwest. As a result, the canyon supports this fantastic diversity of wildlife that Senator Goldwater referred to, including bighorn sheep and golden eagles, Mexican black hawks in there which is quite a rare species—bobcats and cougars. The canyon raptor, it seems like every 10 yards or so a canyon raptor has set up its territory. These are tiny birds that have a voice that rivals Aretha Franklin. They belt out their songs and it reverberates in the canyon in a magnificent way. The wildlife is just spectacular. I was privileged to travel through the canyon last fall and we saw lots of signs of javelina and many other forms of wildlife; bighorn sheep were on the canyon rim, and indeed it was a spectacular experience.

As Senator Goldwater mentioned, there are two endangered species of fish in the canyon and many other forms of invertebrates and cactus coming down the canyon rim. It is quite a place.

As you know, Defenders of Wildlife does not actually own the land anymore around Aravaipa. It is the Aravaipa Trust. In 1976 and 1977 Defenders' board made the decision to establish Aravaipa Trust and place Aravaipa under the stewardship of that body which is a separate corporate body based in Tucson. I represent the trust here today as well. The Aravaipa Trust shares four board members with Defenders of Wildlife, but otherwise is completely separate. The trust owns or leases blocks of land surrounding the BLM primitive area and manages all the land for their wilderness area.

I brought this map here today which is part of the committee records now. Outlined in black is the Aravaipa primitive area owned by BLM. Right through here, this topographic map, if you take a closer look at it, you can see the relief characteristics. The steepness of the canyon walls is well shown. They are virtually vertical. It is a miniature Yosemite with the straight walls and stream running through the middle.

The blocks of orange are the deeded land to the withheld trust. Outlined in red are leased lands all down in here, leased lands to the trust, and outlined in purpose are lands under permit to the trust. Everything else, the yellow and this blue and green here, are working ranches of the Salzaran and Venezuela families that have lived in that area for decades, generations, and who respect the land and are enthusiastic about the wilderness proposal for Aravaipa as well.

Aravaipa is not the Grand Canyon. It is not Yosemite. It is not the Grand Tetons. Those areas, of course, are the crown jewels of the Nation, and the breath-taking, spectacular, all-encompassing panoramic views. What it is is a magnificent, unique, very fragile, essentially pristine desert oasis. It is a fitting choice as BLM's lead wilderness designation.

We suspect much more work remains to be done on BLM wilderness in Aravaipa and elsewhere, but we do urge the committee very, very strongly to move forward with this piece, and without delay, as a first step to protecting BLM wilderness, and Aravaipa Canyon for generations to come, and we thank you.

[The prepared statement of Mr. Cooper follows:]

STATEMENT OF TOBY COOPER
PROGRAMS DIRECTOR OF
DEFENDERS OF WILDLIFE

Mr. Chairman and members of the committee:

I am Toby Cooper, Programs Director for Defenders of Wildlife. Our offices are located at 1244 19th Street, N.W., Washington, D.C. 20036. Defenders of Wildlife is a national, non-profit organization dedicated to representing the best interests of wildlife in governmental decision-making.

I am here today representing Defenders of Wildlife and the Defenders of Wildlife Trust for the George Whittell Wildlife Preserve at Aravaipa Canyon (Aravaipa Trust). Both organizations share an extremely high level of interest in the future of Aravaipa Canyon, north of Tucson, Arizona. Defenders and the Aravaipa Trust have supported wilderness designation for the canyon for many years, and we enthusiastically applaud Senator Goldwater today for introducing S. 626 and for bringing this matter to a hearing.

Background

The private conservation efforts at Aravaipa began in 1970 when The Nature Conservancy recognized the biological uniqueness of Aravaipa and began purchasing lands around the perimeter of the canyon. In 1972, Defenders of Wildlife purchased the Conservancy's holdings and began planning a major acquisition effort to be called the George Whittell Wildlife Preserve. The Preserve is intended to provide a protective buffer zone of wilderness-character lands around the Bureau of Land Management (BLM) primitive area that embraces the canyon proper. Defenders' purchases were made possible by the estate of the late George E. Whittell.

In 1974, the Aravaipa Trust was established to consolidate the acquisition and management of the Preserve in Tucson. The purpose of the Trust is to encourage and foster preservation of the many species of wildlife in the Aravaipa Canyon Primitive Area and the surrounding area as a memorial to George Whittell. Defenders of Wildlife and the Aravaipa Trust are separate organizations but remain closely tied by the common bond of Aravaipa's beauty and value to wildlife.

Since the beginning of the private acquisition effort at Aravaipa, a solid partnership has been forged between Defenders, the Aravaipa Trust, and the BLM. The wilderness quality of the land has cemented this partnership. Because the George Whittell Preserve lands are managed for their wilderness qualities, statutory designation of Aravaipa's federal lands as wilderness is highly desirable.

At the present time, the Trust owns or leases 26,104 acres adjacent to the primitive area, 6,029 acres of which are deeded lands and 20,075 acres are leased from the state or BLM. The Aravaipa Trust plans to continue acquisition of lands around the canyon until the Preserve is complete. Priority is now being given to the purchase of one major parcel and several smaller ones which are considered desirable. The Trust has provided a large-scale map for use by the Subcommittee on Public Lands and Reserved Water, which outlines the status of all major land parcels around Aravaipa Canyon.

The Trust lands provide multiple benefits for the canyon. Besides protecting wildlife and wildlife habitat, including the prime bighorn sheep habitat surrounding the canyon, the rolling uplands owned by the Trust constitute a critical watershed for Aravaipa. Protection of these fragile, arid lands from overgrazing, and thus protection of the canyon itself from the destructive effects of erosion and siltation, is a prime goal of the Trust.

The ability of Aravaipa Canyon to continue to support its amazing diversity of wildlife is highly dependent upon the quality and quantity of water flowing down the canyon's permanent stream. For this reason, the Trust has initiated research into Aravaipa's hydrology, with special attention on the movement of water through the subterranean aquifer. In addition, the canyon has been the site of numerous wildlife studies and other investigations, a bibliography of which is appended to this statement. This body of knowledge will contribute greatly to understanding the canyon's needs in order to facilitate wilderness management decisions.

Wildlife Values

Aravaipa Canyon shelters a spectacular desert riparian wildlife and plant community. The canyon stream is permanent while the several sidecanyons provide watercourses for intermittent streams. The steep -- often vertical -- canyon walls of salmon-pastel sandstone support typical Sonoran cacti and shrubs, but the canyon floor is thick with towering cottonwoods, sycamore, willow, walnut, ash, and wildflowers.

A day's hike through the 12-mile canyon affords a priceless opportunity to observe wildlife. A healthy population of bighorn sheep thrive on the north rim, and occasionally rest on the slopes overlooking the river. They are easily observed but also easily disturbed. Javelina, though rarely seen in daylight, are frequently in evidence. Coati mundis, bobcat, ringtails, hognosed skunks, and other mammals are common. Even tracks of the elusive cougar have been found.

Aravaipa's birdlife is one of its prime attractions. Canyon wrens and black phoebes are constant companions of visitors to the canyon. Golden eagles, black hawks, zone tailed hawks and other raptors are found along the length of the canyon. The two hawk species are uncommon north of the Mexican border, but Aravaipa seems to provide the right habitat requirements. Vermillion flycatchers -- a flash of scarlet and black -- are frequent in spring and summer. The BLM's bird list totals almost 160 species, and the list is expected to grow with further study.

Aravaipa also provides habitat for endemic fish. Two species, the spikedace and the loach minnow, are under consideration by the U.S. Fish and Wildlife Service (FWS) for protection under the Endangered Species Act. The FWS has announced that it has substantial data to support this consideration and we are now awaiting notice of listing. Also, at least five species of rattlesnakes are resident in the canyon.

Wilderness Designation

In large part, the rich diversity of wildlife in Aravaipa is a result of the juxtaposition of the Sonoran desert biome and the riparian communities fed by the stream. This diversity is what gives Aravaipa national significance and helps qualify it for wilderness designation. Aravaipa is prized by citizens in Arizona and nationwide for its uniqueness, fragility, isolation, gentle beauty and rich biota. Wilderness status for the existing primitive area is both timely and highly appropriate.

The Aravaipa Trust and Defenders of Wildlife are committed to completing the Aravaipa Preserve as a complement to the proposed wilderness. Together, these lands will provide a biological jewel and showcase for the emerging BLM wilderness program. We appreciate the opportunity to present this data and we look forward to speedy passage of this legislation.

Annotated Bibliography

Ellingson, C. T. 1979. Hydrology of the Aravaipa watershed: Final report to the Defenders of Wildlife. Geologic and hydrologic summary of the Aravaipa watershed.

Johnson, T. B. (ed.). 1980. 1980 Progress report for the biological survey of the George Whittell Wildlife Preserve, Graham and Pinal counties, Arizona. 1. Summary of vegetation and flora of the George Whittell Wildlife Preserve. Basic botanical information evaluating botanical resources regarding the identity and distribution of plant species and the distribution, structure, and future changes in vegetation associations.

Johnson, T. B. (ed.). 1980. 1980 Progress report for the biological survey of the George Whittell Wildlife Preserve, Graham and Pinal counties, Arizona. 2. Survey of amphibians, reptiles, birds, and mammals of the George Whittell Wildlife Preserve.

Johnson, T. B. (ed.). 1981. 1981 Final report for the biological survey of th George Whittell Wildlife Preserve, Graham and Pinal counties, Arizona. Comprehensive summary of amphibians, reptiles, birds, mammals, vegetation and flora, and their biotic communities and habitats.

Senator WALLOP. Thank you.
Mr. Cawley.

STATEMENT OF SHERMAN CAWLEY, GRAND CANYON CHAPTER, SIERRA CLUB

Mr. CAWLEY. Mr. Chairman, members of the committee, I am Sherman Cawley. I am here today as a volunteer representative of the Sierra Club, the Grand Canyon chapter, which is our statewide organization comprised of 4,000 members.

It is my privilege today to present the chapter's endorsement of Senate bill 626 which will provide wilderness designation for Aravaipa.

Aravaipa Canyon is a widely known riparian and recreational resource. The area contained within the bill includes the steep and rugged desert canyon, its walls and portions of the surrounding mesa tops. These contrast with the lush vegetation associated with the perennial stream that flows there.

Less than 2 percent of all of Arizona contains riparian habitat, yet they provide crucial support for the continued health and diversity of the biotic communities found in our State. Aravaipa is an outstanding example of the riparian habitat in southern Arizona, and deserves protection.

The canyon also contains many supplemental features identified by Congress as qualifying for wilderness designation. It is not only roadless and natural, but it also offers superb opportunities for primitive and unconfined recreation and extensive opportunities for solitude. The canyon's scenery is famous, attracting visitors from every area. The primary use there is recreational, and it is used not only by the local residents but also by visitors from the large metropolitan areas of Phoenix and Tucson. Recreationally game hunting on the mesa tops and sightseeing, especially along the canyon floor, are two of the most popular activities.

Aravaipa supports more than 260 species of fish, amphibians, reptiles, mammals, and birds, 3 of which are listed as endangered by the U.S. Fish and Wildlife Service. Additionally, 3 species of endangered plants also exist here, and as many as 13 more may potentially be found in some of its more remote areas.

Historically, the canyon has been inhabited for more than 9,000 years, and some ruins still exist from the prehistoric Hohokam and Salado cultures. One of these sites is known to qualify for the National Register of Historic Places.

Aravaipa benefits from a lack of conflicts with other resource uses. Grazing is limited to the mesa tops only. The majority of the area was also withdrawn from mineral and agricultural entry under its primitive area status. No valid mining claims exist here, and historically little exploration has occurred.

Because wilderness designation would represent the highest and best use of this important scenic resource, and because it is an outstanding example of crucial riparian habitat, the Grand Canyon chapter endorses the wilderness designation for this well-known canyon.

Thank you for the opportunity to present these remarks.

[The prepared statement of Mr. Cawley follows:]

STATEMENT OF SHERMAN CAWLEY, GRAND CANYON CHAPTER, SIERRA CLUB

Mr. Chairman, and members of the Committee, I am Sherman Cawley. I am here today as a volunteer representative of the Grand Canyon Chapter of the Sierra Club, which is our statewide organization comprised of 4,000 members. It is my priviledge today to present the Chapter's endorsement of Senate Bill 626, which will provide wilderness designation for Aravaipa Canyon.

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Aravaipa benefits from a lack of conflicts with other resource uses. Grazing is limited to the mesa tops only. The majority of the area was also withdrawn from mineral and agricultural entry under its Primitive Area status. No valid mining claims exist here, and historically little exploration has occured.

Because wilderness designation would represent the highest and best use of this important scenic resource, and because it is an outstanding example of crucial riparian habitat, the Grand Canyon Chapter endorses wilderness designation for this well known canyon.

It's been my priviledge to appear here this morning, thank you for this opportunity to present these remarks.

Senator WALLOP. Thank you, Mr. Cawley.

Mr. McComb.

STATEMENT OF JOHN McCOMB, DIRECTOR, WASHINGTON OFFICE, SIERRA CLUB, ON S. 626

Mr. McCOMB. Mr. Chairman, Senator Hecht, I am John McComb, director of the Washington Office of the Sierra Club. By way of background, I might add I was the Southwest representative of the Sierra Club for many years covering the territory that is included in Arizona and New Mexico.

I will make this short.

Senator WALLOP. Could you pull the mike just a little closer?

Mr. McCOMB. Sure. Aravaipa Canyon was recognized by the Bureau of Land Management as having special values in 1969 and was the Bureau's first administratively designated primitive area. I was personally involved in the public hearings in that designation process at that time, and I know well its wilderness qualities.

It is the first and only BLM wilderness study area to date that has been recommended by the President for wilderness. We fully concur with this recommendation and think that it is appropriate that the Congress enact S. 626 as introduced.

Senator WALLOP. Thank you.

Ms. Horton.

STATEMENT OF ALISON HORTON, ASSOCIATE LEGISLATIVE DIRECTOR, NATIONAL AUDUBON SOCIETY, ON S. 626

Ms. Horton. Thank you, Mr. Chairman. My name is Alison Horton, and I appreciate having the opportunity to provide testimony today on behalf of the National Audubon Society.

Let me just say by way of introduction that many National Audubon members in the western part of the country and elsewhere have a strong interest in protection of the wilderness values on our public lands. Therefore, we are very pleased to see that Congress is giving attention to designation of Bureau of Land Management lands as part of the National Wilderness Preservation System.

Some of the most pristine and spectacular remaining wild areas in this country are in the predominantly arid western desert and canyon lands managed by BLM. Audubon is in fact concerned that the 23 million acres of presently identified BLM wilderness study areas fail to include some important BLM lands which are perhaps deserving of wilderness consideration.

We are certainly very pleased to see S. 626 before the committee today, and strongly support designation of the Aravaipa Wilderness Area. I won't dwell on the portions of my testimony which discuss the outstanding scenic and natural attributes of the Aravaipa Canyon in great detail since they have already been covered by others here. Certainly the unique water supply that is provided by the stream running through the canyon is what makes it unique as a wildlife habitat and an outstanding area for flora as well.

Audubon is also very concerned about the fish habitat which Aravaipa Canyon provides, and as with other organizations here, we consider the seven native species that occur there a truly remarkable wildlife phenomenon, unlike many other areas. Aravaipa harbors no introduced fish species that might compete and drive out the natives in the future. Bird species are certainly in abundance, and raptors including black and zone-tailed hawks, buff-collared nightjar, which are rare birds, also inhabit the area. Certainly as a bighorn sheep habitat it is outstanding.

Aravaipa currently shows we feel what a well-managed desert riparian community can offer the public. In recent years BLM has instituted an excellent permit system that keeps recreational use within the capacity of the canyon to absorb it. With the cooperation of local ranchers, livestock has been eliminated from the canyon bottom and forage utilization on the adjacent ranches is carefully regulated.

The Audubon Society believes that Aravaipa Canyon Primitive Area is highly suitable for wilderness designation and would add diversity to the National Wilderness Preservation System.

Therefore, we certainly support Senator Goldwater's bill and urge you to make Aravaipa a part of the wilderness system. Thank you, Senator Wallop. Thank you very much.

Terry.

STATEMENT OF TERRY SOPHER, DIRECTOR, BLM, WILDERNESS SOCIETY, ON S. 626

Senator Wallop. Thank you, Mr. Chairman. It is a pleasure to be here this morning representing the Wilderness Society. The Wilderness Society and its members in Arizona have had a long history of interest in the Aravaipa Canyon area dating back to the sixties.

This unique area, as the other witnesses have testified this morning, is truly nationally significant in its natural and cultural resource values, ecological values, and definitely deserves priority consideration for designation as part of the National Wilderness System, so we would like to applaud Senator Goldwater for recognizing the natural values of this area and introducing this legislation, and we applaud you for considering it on a prompt basis.

There is one aspect of the bill, Mr. Chairman, I would like to call to your attention, and would be glad to provide specific comments related to this. Section 6 provides that prior to promulgation of rules and regulations providing for the administration of components of the National Wilderness System, the Aravaipa Canyon shall be administered under the rules and regulations of the Secretary applicable to designated primitive areas.

This provision is unnecessary. In fact, BLM has already issued a policy and procedures for managing any lands that happen to be designated by Congress as wilderness on the BLM land. Accordingly, section 6 should be revised to provide that it shall be managed upon enactment according to the Wilderness Act and BLM's policies consistent with that.

In closing, Mr. Chairman, I would like to point out that we are particularly interested in seeing this bill considered and seeing the Congress consider other BLM wilderness study areas.

As you know, in 1976 the Federal Land Policy and Management Act for the first time mandated a wilderness review on BLM lands. This process starting in 1978 has been implemented by BLM, concluding in 1980, the fall of 1980, with completion of the so-called wilderness inventory, identifying those lands that contain wilderness values—roadless areas that are natural, and they have outstanding opportunities for primitive recreation and solitude.

BLM concluded there were approximately 24 million such acres on the public lands. That is less than 8 percent of the total BLM land ownership. Over the ensuing 2 years, Mr. Chairman, our members have begun to become very, very concerned that that program is not being implemented consistent with the law and consistent with the desires of the Congress. Mr. Watt has initiated policies that seriously undermine FLPMA's mandates for sound wilderness review process on the public lands.

Senator Wallop. Mr. Sopher, I will let you go on, but I will just point out that this is not an oversight hearing. This is a hearing on the specifics of the bills, and you can make whatever political statements you wish, but I would point out that is not what we are gathered for this morning.

Mr. Sopher. I understand, Senator. I am simply pointing out that while the bill before us here this morning concerns one BLM area in Arizona, that there are many other areas in Arizona and other States that are not receiving the kind of protection and consideration that they must if Congress is to have its opportunity to fairly consider them for wilderness.

Senator Wallop. Well, I understand that, and perhaps at some time we will have a general oversight hearing on it. The act does provide some scheduled events, and it is my understanding that that is not scheduled, but we could do that at another time.

Mr. **Sopher**. Yes, sir. I would strongly recommend that, and knowing your concern for the implementation of FLPMA and the role we can play in that, we do call your attention to what we see as serious problems with the program.

I might point out that Aravaipa Canyon, as you know, is one of the so-called instant study areas. FLPMA's section 603 said that since it was a primitive area designated by the BLM previously it was to be immediately put into wilderness study status, and the study completed and a report made to Congress.

Under FLPMA's management, the instant study areas, of which there are 51, are to be, were to be reported presently by the summer of 1980. Those reports are now over 2 years late. Aravaipa Canyon was the only one that was reported on time, and again this is something that we call your attention to.

Senator **Wallop**. That is fair enough. Just for the record, though, there was another President at another time who was in office in which they were to be done. Let the accusations fall on all shoulders equally if you will, but nonetheless, it remains the prerogative of the elected officials of the State to offer the legislation. That we somehow or another won't ever find a way around because we cannot sort of just concoct bills without the support of the interested people from those areas. We have it on this one and I expect we will have it on others as they come along.

May I ask Judy Bishop to join us at the table? And Senator Hecht, do you have any questions on this bill?

Senator **Hecht**. No, but the gentleman from Arizona, he has whetted my appetite. During my August break I am going to go look at that canyon.

Senator **Wallop**. That's a pretty good place. Toby, if you need to catch a plane?

Senator **Hecht**. Where is it located?

Mr. **Cooper**. As a member of the Defenders of Wildlife, I work here. We have a field representative in Arizona who can arrange a trip for you to go to Aravaipa. There is BLM permits—50 per day—that are obtainable in Tucson, and it is quite worthwhile.

Senator **Hecht**. I would like to.

Senator **Wallop**. Thank you. The next bill is S. 285, and Judy, you are on the top of the list. Welcome here.

Ms. **Bishop**. Thank you, Mr. Chairman. I would like to submit oral testimony today and submit my written document at a later date, if that is all right?

Senator **Wallop**. By all means.

STATEMENT OF JUDY BISHOP, COORDINATOR, NEW MEXICO BLM WILDERNESS COALITION

Ms. **Bishop**. I am Judy Bishop. I am now the coordinator for the New Mexico BLM Wilderness Coalition.

The coalition was formed March 21, 1982. It is an ad hoc group of New Mexicans that are dedicated to the purpose of having suitable BLM lands designated as wilderness after proper study.

Our members are simply individuals interested in BLM lands. They may or may not be members of other environmental organizations. We are all volunteers. The coalition is supported by the Wilderness Study Committee, the New Mexico Wilderness Study Committee, the Wilderness Society, the Sierra Club, and Friends of the Earth. The coalition would like to thank our Senators Domenici and Bingaman for their concern on the Bisti and proposing at least part of the area as wilderness in S. 285.

Besides the wonderful, unique landscape of the Bisti formations, the area must be protected because of its fossil resources and archeological sites. The potential coal development proposing a town of 12,000, new railroads, and electric generating station, only stresses the need to protect at least part of this wonderful San Juan Bisti area.

We wholeheartedly support Governor Anaya in his call for a moratorium on coal leasing until a thorough study of all factors has been completed, and also support his proposal for some land trades.

If the coalition could have a wish granted, we would ask that the entire San Juan Basin area be set aside as a national monument or reserve, but we realize this is not realistic. While making the Bisti Wilderness Studv Area a wilderness is a step in the right direction, the coalition would like to see all three wilderness study areas—the Bisti, De-Na-Zin, and Ah-shi-sle-pah—designated as wilderness. We would like some protection for the fossil forest.

In this letter to me of April 4, Senator Bingaman mentioned the possibility of amending the act to include other areas as wilderness. One of the areas he mentioned was the fossil forest. We would like to see this designation for the fossil forest.

Senator Domenici has inquired in a letter why we would be so insistent on the wilderness designation. It is because it is the only way to protect the land, and even that designation does not always work. If other designations are made, the land is not managed properly. For example, one of the extensive inventory of roadless areas, Muscalaro Sands, was made an outstanding natural area. The area designated was too small. The entire north dune area, it is a live sand dune, and it was opened to off-road vehicle recreation. That is destroying the dune.

In the southern part of the State we have the area that is designated as a natural resource area. Nothing has been done to make it a natural resource area. It was for grass management I believe. The cattle are still on there grazing as they were before.

We have a protected area in Red Rock. It will be flooded if the Central Arizona Dam is built at the Connor site.

BLM is proposing some type of special designation for 57,000 acres, or 32 percent of the area dropped by Secretary Watt. The Ignacio area contains 47,000 of those acres. The largest natural arch in the State is contained in that area. It is being proposed to have I think—rather the acreage for the natural arch is 12,000 acres. The original area was 29,000 acres. I need to make a revision on my area for the natural arch. It is only 1,200 acres. The original study area that contains the natural arch was 29,000 acres.

We are losing a good part of our land, of the lands that were dropped in the Federal Register notice by Secretary Watt. BLM will be recommending that 68 percent of those be dropped from further wilderness study.

You know, when they are putting it under designation, they are not managing the lands in our wilderness study areas properly. They have not followed the area management policy as they are supposed to. In one of our areas in the Florida mountains——

Senator **Wallop**. Can I make the same observation to you that I made to Mr. Sopher, that the purpose of this is the Bisti?

Ms. **Bishop**. That is true, and I was responding in answer to the question that Senator Domenici had posed to the coalition when we had corresponded with him about the Bisti bill, and that is why we are so insistent on the wilderness designation.

Senator **Wallop**. Well, all right, but it is on Bisti that we are primarily gathered here.

Ms. **Bishop**. Right, and if you would like the summation on my remarks, on simply the Bisti, the Bisti bill is very nice. It is a step in the right direction. It does not protect enough of the land in the area. We would like to see all three wilderness study areas—the Bisti, De-Na-Zin, and Ah-shi-sle-pah—as wilderness and some kind of protection for the fossil forest.

Senator **Wallop**. May I suggest to you that in order to get that done we would have to have a bill introduced by your Senators or your House delegation.

Ms. **Bishop**. That is true.

Senator **Wallop**. And we really just can't hear testimony on bills that have not been introduced.

Ms. **Bishop**. I think perhaps what I am asking is perhaps a bill could be amended to include the other areas as Senator Bingaman had suggested in his letter to me.

Senator **Wallop**. Again, I would suggest if that were to be the case, that it would more properly come from Senators Bingaman and Domenici.

Ms. **Bishop**. Yes. I agree with you.

Senator **Wallop**. But you do support the Bisti?

Ms. **Bishop**. I support the Bisti, yes, and I would just like to see some more in there. I think I would also like to see, and perhaps this is not pertinent to the Bisti itself, BLM do a proper study of all the lands and follow their procedures and policies and regulations as they are written on the books.

What we are finding in New Mexico is a lot of our time is spent making sure that BLM is complying with the regulations, and we can't even get out to the areas sometimes to check them so that we can make appropriate comments because most of our time is spent saying you promised us this type of information or the regulations say you are supposed to give us this and we are not getting them in a timely manner. We are not finding out what is happening.

There has been a lot of inconsistency on dates and information coming from the agency.

Senator **Wallop**. Well, again this isn't an oversight hearing on that.

Ms. Horton.

STATEMENT OF ALISON HORTON, ASSOCIATE LEGISLATIVE DIRECTOR, NATIONAL AUDUBON SOCIETY, ON S. 285

Ms. HORTON. Thank you again, Mr. Chairman. Let me just say in the beginning that I urge you to leave the record of this hearing open if it is at all possible to allow for inclusion of some of the comments which, all of the comments which will be made at the hearings held by the House Interior Committee next weekend out in Santa Fe. I know certainly that many Audubon Society members who couldn't be here today are looking forward to an opportunity to testify on Congressman Lujan's companion bill.

Senator WALLOP. If they wish testimony, it will be included as part of this hearing. The record is open for 10 days.

Ms. HORTON. And it will be simply to send it—fine. I will pass that word along.

The Bisti Badlands Wilderness bill, S. 285, proposes congressional action on two BLM wilderness study areas. We concur fully with the proposals to designate the Bisti Wilderness.

We do, however, feel very strongly that the most desirable approach to the issue of wilderness designation in the Bisti Badlands is comprehensive legislation. Since the De-Na-Zin and Ah-shi-sle-pah wilderness study areas within the badlands both qualify fully for wilderness designation, we urge they be so designated in conjunction with the Bisti.

Our fundamental concern with S. 285 is that it would actually provide less protection for the De-Na-Zin study area than it receives and will continue to receive under current law.

The 1991 deadline established by BLM for interim protection of wilderness study areas in conformity with FLPMA reflects the realization that the congressional wilderness designation process is a lengthy and complicated one. To short circuit the time provided for congressional consideration by moving that mandated deadline from 1991 to 1985 jeopardizes eventual designation of the De-Na-Zin. In effect, we fear that the area could be penalized by special congressional consideration which is what S. 285 will provide now.

The National Audubon Society is very concerned that reducing the extent of interim protection timewise without establishing De-Na-Zin and Ah-shi-sle-pah as wilderness would also set an unfortunate precedent for congressional action on other BLM wilderness study areas. Shortening deadlines significantly over those established by FLPMA can only result in a regrettable and increased politicization of the congressional wilderness designation effort.

I am going to refrain from discussing in detail the merits of the three wilderness study areas in the Bisti Badlands. As I said, in New Mexico, Audubon members who have a much greater knowledge of the outstanding natural, scenic, paleontological, and archeological values in need of protection will be sharing some of those details with Congress at next weekend's hearings and will perhaps also be suggesting possible boundary refinements on the Bisti to assure that the most topographically cohesive units be designated.

However, we would hope not only that the three existing wilderness study areas be designated in their entirety, but careful congressional review be given to the fossil forest area. It was not an area proposed by the agency for wilderness study area status. It is, however, a remarkable paleontological resource which in our view deserves some form of protection commensurate with its environmental sensitivity.

There is also strong interest in the area within the State in assuring the possibilities be fully explored for national park designation at some point in the future for a portion of the badlands.

I regret to say that because of the concerns that I have discussed above, the National Audubon Society cannot support S. 285 as presently drafted. We do feel that the designation of the badlands and wilderness designation in the badlands is critical, and for that reason, we are very pleased to see the New Mexico delegation and the Congress taking up the issue.

We certainly hope that S. 285 can be modified so that we can give it our full support in the near future.

Thank you.

[The prepared statement of Ms. Horton follows:]

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STATEMENT OF ALISON HORTON
ASSOCIATE LEGISLATIVE DIRECTOR
PUBLIC LANDS AND WATERS PROGRAM
NATIONAL AUDUBON SOCIETY
BEFORE
THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER
OF THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
HEARINGS ON S. 285 AND S. 626

May 17, 1983

Mr. Chairman and members of the committee, my name is Alison Horton. I appreciate having the opportunity to present testimony today on behalf of the National Audubon Society. Many of National Audubon's members in the western part of the country, and elsewhere, have a strong interest in the protection of wilderness values on our public lands. Therefore, we are very pleased to see Congress giving attention to the designation of Bureau of Land Management lands as a part of the National Wilderness Preservation System. Some of the most pristine and spectacluar remaining wild areas of this country are in the predominantly arid western desert and canyon lands managed by the BLM. Audubon is, in fact, concerned that the 23 million acres of presently identified BLM wilderness study areas fail to include some important BLM lands deserving of wilderness consideration.

The two areas being considered for wilderness designation by the committee today, the Bisti in New Mexico and the Aravaipa in Arizona are highly qualified for inclusion in the system. I would like to comment briefly on both of the bills before you. In the case of the Bisti bill, I urge you to leave the record of this hearing open to allow for inclusion of statements made at the House Interior Committee hearings which will be held in Santa Fe on May 21, 1983. Many Audubon Society members who could not be here today are looking forward to that opportunity to comment on Congressman Lujan's companion bill to S. 285.

Bisti Badlands Wilderness

The Bisti Badlands Wilderness bill, S. 285, proposes Congressional action on two BLM wilderness study areas. We concur fully with the proposed designation of the Bisti Wilderness. We do, however, feel very strongly that the most desirable approach to the issue of wilderness designation in the Bisti Badlands is comprehensive legislation. Since the De-na-zin and Ah-shi-sle-pah wilderness study areas within the Badlands both qualify fully for wilderness designation, we urge that they be so designated in conjunction with the Bisti. Our fundamental concern is that S. 285 would actually provide less protection for the De-na-zin study area than it receives and will continue to receive under current law. The 1991 deadline established by BLM for interim protection of wilderness study areas, in conformity with the Federal Land Policy and Management Act (FLPMA), reflects the realization that the Congressional wilderness designation process is a lengthy and complicated one. To short circuit the time provided for Congressional consideration by moving the mandated deadline from 1991 to 1985, jeopardizes eventual designation of the De-na-zin. In effect, we fear that that area could be penalized by the special Congressional consideration which S. 285 would provide now.

The National Audubon Society is very concerned that reducing the extent of interim protection without establishing De-na-zin and Ah-shi-sle-pah as wilderness would also set an ill-advised precedent for Congressional action on BLM wilderness. Shortening deadlines significantly over those established by FLPMA can only result in an undesirable and increased politicization of the Congressional wilderness designation process.

I am going to refrain from discussing in detail the merits of the three wilderness study areas in the Bisti Badlands. New Mexico Audubon members who have much greater in-depth knowledge of the outstanding natural, scenic, paleontological and archeological values in need of protection, will share those details with Congress at the May 21st hearings and will suggest possible boundary refinements to assure that the best topographic units be designated. However, we would hope not only that the three existing wilderness study areas be designated in their entirety but that careful Congressional review be given to the Fossil Forest area. The agency did not include Fossil Forest in its wilderness study area recommendations. It is, however, a remarkable paleontological resource area which, in our view, deserves some form of protection commensurate with its environmental sensitivity. There is also a strong interest within the state in assuring that the possibilities be fully explored for national park designation at some point in the future for portions of the Badlands, providing the necessary level of and continuity in protection.

I regret to say that because of the concerns which I have discussed above, the National Audubon Society cannot support S. 285 as presently drafted. We do feel that wilderness designation in the Badlands is critical and, for that reason, are very pleased to see the New Mexico delegation and the Congress taking up the issue. We hope that S. 285 can be modified so that we can give it our full support in the near future.

Aravaipa Wilderness

I would like to briefly share with you some of the reasons behind our strong support for designation of the Aravaipa Wilderness, as it would be established under S. 626. There is no scheduled opportunity for Congress to hear local discussion in Arizona of the Aravaipa area. Let me highlight, therefore, some of its more outstanding natural values.

One of the few perennial streams left in Arizona's Sonoran desert flows through Aravaipa Canyon on its way to join the San Pedro River. The constant water supply and the shelter afforded by the canyon walls create a stable habitat that supports a rich flora and fauna. Cottonwood, willow, walnut, ash and sycamore trees thrive in the canyon bottom, forming the overstory of an unusually extensive and well-developed riparian community. On the hillsides and cliffs an entirely different biotic community, the Sonoran desertscrub, flourishes. the juxtaposition of the riparian and desert zones produces an unusually diverse fauna.

Aravaipa is also a scenic jewel. A myriad of colors -- the light green of cottonwood and willow, emerald green grass (changing to brown late in the season), the silver and blue stream, buff-colored sands, the red and cream canyon walls, the occasional black mouth of a cave -- combines to please and delight the eye. Side canyons offer sculptured potholes and chutes, scoured from the white sandstone by the runoff of many seasons. An occasional cluster of columbine or an isolated cottonwood adds dimension and visual drama to these miniature canyons.

The aquatic ecosystem of Aravaipa supports a unique fish fauna; seven native species occur together. Two of these, the Spikedace (*Meda fulgida*) and the loach minnow (*Tiaroga cobatis*) are now being considered by the U.S. Fish and Wildlife Service for threatened or endangered status. Although two or three other populations exist elsewhere in Arizona and New Mexico, Aravaipa contains the best remaining habitat for these two species. Unlike many other Arizona streams, Aravaipa harbors no introduced fish species that might compete with and drive out the natives.

The canyon also contains an unusal diversity and abundance of raptors, including black and zone-tailed hawks. Uncommon elsewhere, these species are easily observed here. The Bureau of Land Management lists a total of 158 species in its guide to birdlife of the Primitive Area, and this list is still incomplete. Rare species such as the buff-collared nightjar (*Caprimulgus ridgway*) occur on private land in the canyon and may inhabit the Primitive Area as well. The canyon also shelters an unusual variety of rattlesnakes: western diamondback, black-tail, Mojave, tiger and Arizona black.

The herd of desert bighorn that roams the north rim of Aravaipa Canyon is one of the healthiest in the state. Bureau of Land Management biologists believe the herd has now reached the carrying capacity of the areas immediately around the canyon and is expanding into unoccupied habitat; unlike bighorn populations elsewhere. Given the bighorn sheep's sensitivity to stress and disturbance, it is vital to protect the range of this herd.

Beneath its beauty and vitality, the Aravaipa Canyon ecosystem is basically fragile. The well-developed riparian zone can all too easily be destroyed by heavy grazing or recreational use. Intense visitor pressure, inevitable if the canyon were opened to vehicle traffic, would cause the disappearance of the vigorous growth that now supports the abundant fauna. Needless to say, it would also wreak havoc with the existing fish communities.

Aravaipa currently shows what a well-managed desert riparian community can offer the public. In recent years BLM has instituted an excellent permit system that keeps recreational use within the capacity of the canyon to absorb it. With the cooperation of local ranchers, livestock have been eliminated from the canyon bottom, and forage utilization on the adjacent ranches is carefully regulated. Native grasses that had disappeared from the area are coming back.

The National Audubon Society believes that the Aravaipa Canyon Primitive Area is highly suitable for wilderness designation. As wilderness, it would enhance the diversity of the National Wilderness Preservation System. We fully support S. 626 and urge you to make Aravaipa part of that system.

Thank you very much for the opportunity to comment on these two pieces of legislation.

Senator **Wallop**. Thank you.
Terry.

STATEMENT OF TERRY SOPHER, DIRECTOR, BLM, THE WILDERNESS SOCIETY, ON S. 285

Mr. **Sopher**. Thank you, Mr. Chairman. Again, we are pleased to have the opportunity to testify on the bill. We do applaud the sponsor and the subcommittee for considering S. 285 to the extent that it recognizes the outstanding wilderness values in the Bisti.

As drafted, the Wilderness Society and its members cannot support S. 285 because of serious deficiencies. I would like to enumerate those at this time.

First of all, as mentioned by other panelists, wilderness designation is deserved for all three of the areas, all three of the study areas in the San Juan Basin.

Additionally, the fossil forest area deserves special protection, perhaps not wilderness status, but some kind of special statutory protection because the whole region, as has been noted, is especially critical and especially sensitive.

Second, section 5 again requires revision. As I indicated in the Aravaipa Canyon bill, the language in section 5 which refers to management area upon designation as wilderness does not refer to the Wilderness Act. It says it will be managed as a natural area in the interim.

Third, section 6 which pertains to De-Na-Zin, Dr. Carruthers testified that he didn't understand that section. We understand it as drafted, and what it does say very clearly is it changes the current wilderness study area status of De-Na-Zin. It in effect gives the Secretary authority to go back and do another inventory if he so desires and come to a finding that it does not have wilderness quality.

Furthermore, regardless of any reinventory by the Secretary, section 6 would end the WSA status in a wilderness consideration by the deadline of this section.

Furthermore, we believe that the bill should be amended to reinstate the over 180,000 acres of wilderness study areas that Secretary Watt illegally eliminated from the wilderness review process in New Mexico. By his decision on December 30, 1982, the Secretary is proceeding to eliminate more WSA——

Senator **Wallop**. Is that a legal opinion or is that your personal opinion, that "illegally"?

Mr. **Sopher**. That is a legal opinion. We are in court on that, as you know.

Senator **Wallop**. Has there been a judgment?

Mr. **Sopher**. No. We expect it to be ruled on by the court some time this fall. However, I will point out that with regard to certain aspects of that decision, so-called split estate decision, one of the Secretary's regional solicitors wrote an opinion in February that undercut the Secretary's justification for that decision, and that regional solicitor's opinion was subsequently attempted to be quashed.

Senator **Wallop**. Well, the solicitor's opinion is like an attorney general's opinion. It has no value until it is tested

Mr. SOPHER. If that is the case, then there certainly wasn't any need for the Secretary to attempt to quash the opinion I would suggest.

Furthermore, the bill, as I indicated, we strongly urge that it be amended to statutorily reinstate the wilderness study areas to certify in effect the wilderness study area acreage in New Mexico as it existed prior to the Secretary's decision in December 1982.

Finally, we suggest that consideration be given to amending the bill to reinforce section 603 of FLPMA with regard to the interim management mandates that are contained there.

Again, our members are very concerned that Secretary Watt is implementing section 603 in a manner that does not protect the wilderness values of these areas while they are under study and under consideration by Congress.

Senator WALLOP. May I suggest to you that if you put enough on this poor little horse it won't be able to walk out carrying it all.

Mr. SOPHER. We would be willing to consider other mechanisms, Mr. Chairman, but we do strongly and sincerely recommend that the community spent time considering what we consider to be extensive abuses of the wilderness review process as implemented by Secretary Watt.

Senator WALLOP. Thank you.

Mr. McComb.

STATEMENT OF JOHN McCOMB, DIRECTOR, WASHINGTON OFFICE, SIERRA CLUB, ON S. 285

Mr. McCOMB. Thank you, Mr. Chairman. Our position on S. 285 is more complicated than that for Aravaipa. While we support wilderness designation for the Bisti Wilderness study area, we do not believe that it can be logically addressed separately from the rest of the San Juan Basin as S. 285 attempts to do.

S. 285 addresses two areas. However, the BLM's study considered three wilderness areas in that part of New Mexico, and we think it is appropriate to discuss all three at this time.

That study resulted in a draft recommendation by the New Mexico State Director of the Bureau of Land Management to designate two or the three areas as wilderness. At public meetings held by the BLM, conservationists testified in support of wilderness recommendations for all three areas. The State of New Mexico joined those people and supported wilderness designation again for all three areas.

We believe that it is very important that plans for protecting the natural and cultural resources in the San Juan Basin be formulated concurrently with the plans to develop the mineral and energy resources in the basin.

S. 285 would designate only one of the three wilderness study areas. Unfortunately, the Bisti recommended in S. 285 is one of the least threatened. It has the fewest preference-right lease applications and has the protection of a recent administrative mineral withdrawal, and the bill fails to provide a comprehensive wilderness protection plan for the basin, and it reduces the wilderness study status of De-Na-Zin in section 5. It establishes weak wilderness management for the area. For these reasons, the Sierra Club cannot support S. 285 as it is currently drafted.

We urge the committee to amend the bill to incorporate the wilderness recommendations formulated by New Mexico conservationists for the San Juan region. In brief, that proposal is to designate as wilderness the three areas studied by BLM—Bisti, 3,968 acres; De-Na-Zin, 19,922 acres; and Ah-shi-sle-pah, 6,563 acres. The above acreages represent the boundaries of the BLM wilderness study areas.

We recommend that in drafting the wilderness bill, the committee seek to expand those arbitrary, section-line boundaries to logical topographic features where naturalness, land status, and land use considerations allow.

There is a fourth area, the fossil forest, which was never studied for wilderness by the Bureau of Land Management, although it contains many paleontological values of international interest, and there has been popular support for its protection. We urge that the committee provide special protection for this unique and important area. If not wilderness, then it should be made a scientific research area or perhaps an addition to the nearby Chaco Culture National Historic Park.

Only one representative from the New Mexico public, Ms. Bishop, was able to attend this hearing today, but I expect many more at the field hearings by the House Interior Committee's Public Lands Subcommittee in Santa Fe this coming Saturday. I urge you to review the record of that hearing in order to hear the views of more New Mexicans.

I would like to endorse the comments that Terry Sopher made about the problems with sections 5 and 6 that deal with wilderness study area status of De-Na-Zin and wilderness management provisions generally, and conclude with some observations about the important role that Congress plays in wilderness, and that this kind of legislation plays.

Not only did the Congress establish the wilderness system and extend the process to BLM's area through the Federal Land Policy and Management Act, but through hearings such as this and consideration of bills like S. 285 and 626, through the committee report language on those bills and oversight hearings, the Congress has consistently provided continuing guidance to the agencies in their review. It deserves the ultimate power to designate areas.

Federal agencies have tended to be more conservative than Congress in interpreting the Wilderness Act and recommending areas for inclusion in the system. Over the last decade, Congress has repeatedly reversed the recommendations of the Forest Service and Park Service and designated more and larger areas as wilderness than recommended by the administration. We had been hopeful that given the clear guidance provided in section 603 of the Federal Land Policy and Management Act and guidance in other acts such as the Endangered American Wilderness Act, the Eastern Wilderness Act, and countless individual wilderness bills, that the Bureau of Land Management would not have repeated the errors of those who went before.

Unfortunately, that is not the case. My written statement outlines some of the problems that we have seen in the BLM wilderness review. I am not going to read them at this time, but I will ask that they be included in the record. Even those two examples outlined in the statement serve to demonstrate the continuing need for comments on the wilderness review program. Congress needs to carefully monitor the implementation of the program to be ready to review and revise the BLM recommendations.

Although we do not fully support S. 285 as currently drafted, we are very pleased that you are considering wilderness legislation for these BLM areas at this time, and we are assured that this involvement will only improve the process.

Thank you.

Senator **WALLOP**. Thank you, Mr. McComb. For the record, I have a statement by Senator Symms with regard to the Snake River lands. That should go in there.

[The prepared statements of Mr. McComb and Senator Symms follow:]

STATEMENT OF JOHN MCCOMB, DIRECTOR, WASHINGTON OFFICE, SIERRA CLUB

Mr. Chairman, members of the Committee, I am John McComb, Director of the Washington office of the Sierra Club. The Sierra Club is a 91 year old citizen environmental organization. We currently have 348,000 members organized in active chapters in every state, and we have active groups in over 300 localities. Wilderness preservation has long been a top priority of the Sierra Club. Our involvement in the BLM wilderness review began a decade ago with our lobbying for the inclusion of wilderness review language (Section 603) in the Federal Land Policy and Management Act (FLPMA).

I am particularly pleased to testify on S. 626 and S. 285, which would add to the National Wilderness Preservation system two Bureau of Land Management Wilderness Study Areas, Aravaipa Canyon and the Bisti. Local citizens from Arizona and New Mexico are here today to testify in greater detail on these specific areas.

I would like to take this opportunity to share with the Committee the Sierra Club's views on both of these bills, especially as they relate to the overall implementation of Section 603 of FLPMA by the BLM and the Congress.

Aravaipa Canyon was recognized by the Bureau of Land Management as having special values in 1969 and was the Bureau's first administratively designated primitive area. It is the first and only BLM Wilderness Study Area (WSA) to date that has been recommended by the President for wilderness preservation. We fully concur with this recommendation and think that it is appropriate that the Congress enact S.626.

Our position on S.285 is more complicated. While we support wilderness designation for the Bisti WSA, we do not believe that it can logically be addressed separately from the rest of the San Juan Basin, as S.285 attempts to do. The Bureau of Land Management recently prepared comprehensive plans for resource development in the San Jaun Basin. In order to ensure that planning for protection of wilderness, cultural and paleontological resources occurred at the same time, BLM conducted an accelerated study of the three Wilderness Study Areas in the region.

That study has resulted in a draft recommendation by the New Mexico State Director of BLM to designate two of the three areas as Wilderness. At public meetings held by the BLM, conservationists testified in support of wilderness recommendation for all three areas. We believe that it is very important that plans for protecting the natural and cultural resources of the San Juan Basin be formulated concurrently with plans to develop the mineral and energy resources of the basin.

S. 285 would designate only one of the three Wilderness Study Areas. Unfortunately, the Bisti, recommended in S.285 is the one least threatened. It has the fewest Preference Right Lease Applications (PRLA's) and has the protection of a recent administrative mineral withdrawal. S. 285 fails to provide a comprehensive wilderness protection plan for the basin, it reduces the Wilderness Study status of De-na-zin, and in Section 5, it establishes weak wilderness management for the area. For these reasons, the Sierra Club cannot support S.285 as it is currently drafted.

However, we do support legislation at this time to protect the wilderness resources of the region. We are pleased that New Mexico's Senators have introduced legislation at this time, and are appreciative for this forum for discussion of the issue.

We urge the Committee to consider the wilderness recommendation formulated by New Mexico conservationists for the San Juan region. In brief, that proposal is to designate as wilderness the three areas studied by BLM:

Bisti -- 3,968 acres
De-na-zin -- 19,922 acres
Ah-shi-sle-pah -- 6,563 acres

The above acreages represent the boundaries of the BLM WSA's. We recommend that in drafting the wilderness bill, the Committee seek to expand those arbitrary, section-line boundaries to logical topographic features where naturalness, land status and land use considerations allow.

There is a fourth area, the Fossil Forest, which was never studied for wilderness by the BLM, although it contains paleontological values of international interest, and there has been popular support for its protection. We urge that the Committee provide special protection for this unique and important area. If not wilderness, then the area should be made a scientific research area or perhaps an addition to the nearby Chaco Culture National Historical Park.

Our wilderness proposal covers barely 30,000 acres of the 70,000 acre "Bisti Badlands". The entire badlands are of national park quality. Even outside of the proposed wilderness areas, the scenic, archeological and paleontological resources are nationally and internationally important. New Mexico conservationists are working with other interest groups to develop a plan to protect these resources outside of the proposed wilderness areas. It is possible that we may seek additional legislation in order to implement such a plan.

For the present, this legislation should add the three Wilderness Study Areas to the National Wilderness Preservation System, and provide special protection for the Fossil Forest.

The BLM has held extensive public hearings in New Mexico on the draft wilderness recommendations. Public support for more wilderness has been overwhelming. Conservationists have attempted to involve other interest groups in preparing the wilderness proposal described above. The areas have historic and religious significance to Indian people, and they are an important archeological resource for scientists and historians.

Only one representative from the New Mexico public is able to attend this hearing today, but I expect many more at the field hearings by the House Interior Committee's Public Lands Subcommittee in Santa Fe this coming Saturday, May 21, 1983. I urge you to review the record of that hearing, in order to hear the views of more New Mexicans. I am confident that the hearing record will provide a mandate for protection of the wilderness and cultural values of the Bisti Badlands.

The Sierra Club is concerned about two other Sections of S. 285. Section 6 would designate the De-na-zin as a Wilderness Study Area until March 1985. As we interpret this section, De-na-zin would cease to be a Wilderness Study Area in 1985. Currently, De-na-zin is a Wilderness Study Area, subject to protection under the Interim Management Policy until such time as Congress determines otherwise.

Section 5 provides that the Bisti be managed as a primitive area until final wilderness management regulations are promulgated. Primitive area management is not as restrictive as wilderness management. It would be preferable for BLM wilderness areas that are designated prior to promulgation of final wilderness management policy to be managed under the draft policy rather than primitive area management.

Traditionally, Congress has played an important and multifaceted role in wilderness preservation. Congress established the Wilderness Act, directed agencies to conduct wilderness studies and make recommendations, and designated areas for inclusion in the system. By way of the designation process, committee report language and oversight hearings, it has consistently provided continuing guidance to the agencies regarding wilderness.

Federal agencies have tended to be more conservative than the Congress in interpreting the Wilderness Act and in recommending areas for inclusion in the system. Over the last decade, Congress has repeatedly reversed the recommendations of the Forest Service and Park Service, and designated more and larger areas as wilderness than the agencies recommended.

We had been hopeful that, given the clear guidance provided in Section 603 of FLPMA and the guidance from acts such as the Endangered American Wilderness Act of 1978, the Eastern Wilderness Act, and countless individual wilderness bills, the Bureau of Land Management would not have repeated the errors of those who went before. Unfortunately, that has not been the case.

For example, a recurring problem with Forest Service wilderness recommendations was an overly pure interpretation of the naturalness requirements of the Wilderness Act. The Forest Service originally recommended against wilderness for areas such as the Sandia Mountains, Manzano, Chama River, and Cruces Basin in New Mexico and Pusch Ridge in Arizona, arguing that these areas for various reasons did not qualify as wilderness. In the case of the Sandias and Pusch Ridge the Forest Service made the argument that sights and sounds of civilization could be seen from the areas. The Congress, after its own review, rejected the original agency position and added all of these areas to the wilderness system.

The BLM has not only repeated this mistake of the Forest Service, but has invented new ones. In conducting the inventory of BLM lands to determine which qualified for study, the BLM, in many cases, failed to identify lands because the lands were not mountainous or had too little vegetation. Anyone who has spent time in desert wilderness knows that some of our very important desert lands are flat, and as the name implies, contain only sparse vegetation. This is not a criteria for wilderness evaluation, however, the BLM made it one.

The most egregious inventory problems occurred in Utah, where the BLM eliminated over 900,000 acres that were appealed by conservationists. The lands all have high wilderness values. The Utah BLM said that the areas did not offer outstanding opportunities for wilderness recreation or solitude, but failed to provide any documentation. In their appeal, conservationists demonstrated that, to the contrary, the areas did offer outstanding opportunities for solitude and primitive recreation.

The Interior Board of Land Appeals has remanded approximately 700,000 acres, and directed the BLM to reinventory the areas. Although this is a victory, conservationists hold little hope that the BLM will do a better job the next time. Our recourse will be to the courts. All of these areas deserve to be studied for wilderness. Ultimately, though, it will be Congress that determines whether these areas are protected as wilderness.

Recently, the 24 million acres identified for study have been under attack by the current administration. On December 27, 1982, Secretary Watt eliminated some 800,000 acres of land from the inventory and thus from study and report to Congress. Originally this included the Bisti area to which wilderness designation would be extended by S. 285. The Bisti and some other small areas were later returned to the inventory. Subsequently additional acreage was dropped. Currently the total eliminated by this action has been approximately 1.2 million acres. This action has been challenged in U.S. District Court in California by the Sierra Club and other conservation organizations. Approximately 180,000 acres that were dropped are in New Mexico, and include some of New Mexico's most spectacular wildlands. Over half of the El Malpais lava flow is being dropped from wilderness study status.

Most of the lands being dropped, including the El Malpais, are being dropped because of split land ownership, where the surface is federal and the subsurface, or mineral estate, is private or state owned. While this could present a management problem in some areas, it is logically a determination that should be made during the wilderness study, when the actual potential for mineral development can be considered, and when options for exchanging the affected sections can be considered. Ultimately Congress should weigh these trade-offs. The Interior Department did not even consider such options with the El Malpais or the other areas that were eliminated on the basis of split estate.

Congress very clearly directed the BLM to manage the areas being studied for wilderness in a manner that would preserve the areas' wilderness values, and to continue that management until Congress determined otherwise. BLM promulgated a policy for the management of Wilderness Study Areas. The policy left numerous matters open to interpretation.

The implementation of the policy has not been sufficiently rigorous to protect the wilderness values of many areas. For example, under this policy, the BLM in Utah has allowed significant oil and gas development in the Mt. Ellen WSA in Utah. In the California Desert, the BLM proposes to allow a cross-country motorcycle race to cross WSA's.

The BLM has also failed to enforce the policy. Violators have not been prosecuted. For example, in Grand County Utah, the county commissioners bulldozed a road into a WSA. The road has not been rehabilitated nor have the violators been prosecuted.

BLM has even failed to keep conservationists informed of activities occurring in WSA's. Sierra Club tried to obtain a list of oil and gas leases that had been issued in WSA's in the California Desert. BLM did not have that information and would only research it at considerable expense to the party making the inquiry. Shortly after local conservationists met with the New Mexico State Director, requesting to be kept informed of all oil and gas leasing operations on WSA's in the state, Exxon drove a "thumper truck" across the West Portrillos WSA, which caused significant damage. Conservationists were not informed. In Colorado, the BLM refused to notify interested groups of Applications for Permits to Drill in WSA's, in spite of requests by the Colorado Open Space Council to do so.

Through improper interpretation of FLPMA, lack of enforcement, lack of monitoring and in some cases an outright bias against wilderness, the BLM is failing to protect many of the areas being studied for wilderness. This is undermining the intent of FLPMA and taking away the prerogatives of Congress to make the final determination of what land should be added to the wilderness preservation system.

The BLM has only begun to prepare wilderness studies, but even the early signs are not reassuring. Prime wildlands are being recommended as not suitable for wilderness for the most spurious reasons. For example, Arizona BLM recommended against wilderness for Ferry Swale, an area adjacent to the Paria Canyon Primitive Area because it would be difficult to manage, since it was so remote.

One of the most disturbing problems in the wilderness studies has been the limited opportunities for public involvement in many cases. The comment periods have generally been the minimum allowed by law. Study documents and information have been in short supply. In Utah, conservation organizations were allotted only two copies of the analysis. The BLM has also largely ignored public support for wilderness. Many areas in the California Desert with overwhelming popular support for wilderness designation were not recommended for wilderness.

I have outlined only our most basic concerns with the BLM wilderness review, and have provided only a very few examples to illustrate those concerns. I would be happy to provide the committee with additional detail on these problems and concerns. Even these few examples should serve to demonstrate the continuing need for the Congress to maintain a high level of scrutiny of the BLM wilderness review program. The Congress needs to carefully monitor the implementation of the program, and to be ready to review and revise the BLM recommendations.

Although we do not fully support S. 285 as it is currently drafted, we are very pleased that the Congress is considering wilderness legislation for BLM areas at this time. We are assured that this involvement will only improve the process.

STATEMENT OF HON. STEVEN D. SYMMS, A U.S. SENATOR FROM THE STATE OF IDAHO

1. I appreciate this opportunity to testify in favor of legislation to determine the untimate course of lands that were inadvertently omitted from the original land survey along the Snake River in the late 1890's. My statement today will be brief, since the record will outline the confusing events that have lead to the need for this corrective legislation.

2. By way of background, the problem involves completion of the omitted lands transfer program involving those unsurveyed lands along both the Henry's Fork and the South Fork of the Snake River. Over the years, these lands have been farmed and homes and businesses have been constructed on them. In other words, Idahoans have, in good faith, presumed these lands to be within their property boundaries, and have acted as though they belonged to them.

3. The problem arose when a 1957 survey initiated by the Bureau of Land Management identified portions of the original surveys which were inaccurate, and even fraudulent. The omitted lands between the original survey and the latter surveys were determined to be Government lands, and the current landholders were so notified.

4. Over the years, Congress has attempted to address this problem. Public Law 87-469 authorized the Secretary of Interior to sell these lands "at not less than fair market value," but that raised an even greater problem. Naturally, the value of these lands has escalated dramatically over the years, creating an even greater inequity for those people that have lived on these lands, paid taxes on them, and otherwise treated them as their own. Suddenly they were asked to pay for those lands at values that exceeded their ability to pay, or even the value of their current use as homesteads and businesses.

5. Our legislation seeks to correct this problem, in a manner which I believe is fair and just. This is not "major" legislation in the vast responsibilities of this body, but it is vital to those who must otherwise live with the uncertainty and legal conflicts that face those few Idahoans who were unfortunate enough to be involved in it. I urge the swift adoption of this legislation to correct this inequity and resolve the undertainty that surrounds it.

Senator WALLOP. And I would just say to you—first of all, I want to welcome Senator Domenici here, and I understand the feelings you express. I would ask you if there is anywhere in America, let alone in New Mexico, with more conflicting land use problems than there is there between Indian lands and Indian overlays and Spanish land grants and mineral entries dating back a long time, and all private interwoven lands. It is not just the kind of territory that you can simply wave a wand over and have all those problems disappear, and they take time to resolve.

I think in some instances you have found that it is a good proving ground for people who would try to resolve those issues. The record there is perhaps better than in some other parts.

I understand your impatience, but I think in my understanding of that, you probably ought to understand the difficulties in moving too rapidly with decisions that tie up the country, unfairly tie up citizens of this country, litigating rightful interests that they possess as a matter of law in some instances, a matter of right before the country and before it was part of the country.

I think it is wise to proceed judiciously there, and not execute them, the wholesale taking of their Indian interests, personal, private interests, that are in conflict there.

Pete?

Senator DOMENICI. Thank you very much, Senator Wallop. First of all, are you going to leave?

Senator WALLOP. I will be right back.

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator DOMENICI. I want to thank you for arranging the hearings today and for conducting the hearings to this point, and for all of the witnesses, and in particular Judy Bishop from New Mexico, I apologize for not getting here sooner. I think you might have read that while I planned this hearing such that I could be here, they snuck in on me and we committed the budget, so we started it again this morning.

To tell you the truth, all I heard was a lot of rhetoric this morning. I should have come over here, but I guess the Chairman has to be over there.

Senator WALLOP. You bet.

Senator DOMENICI. I hopefully got it all out of them today so tomorrow we can do something meaningful.

I have prepared remarks. I don't want to give them at this point, but merely ask you, Mr. Chairman, if I can make them a part of the record?

Senator WALLOP. By all means, they will be part of the record.

[The prepared statement of Senator Domenici follows:]

STATEMENT OF SENATOR PETE V. DOMENICI
MAY 17, 1983
COMMITTEE ON ENERGY AND NATURAL RESOURCES
PUBLIC LANDS AND RESERVED WATER SUBCOMMITTEE

I welcome this opportunity for the Public Lands and Reserved Water subcommittee of the Energy and Natural Resources Committee of the U.S. Senate to hold a hearing on S. 285, a bill to designate 3,968 acres of land in New Mexico, known as the Bisti Badlands as wilderness.

The bill itself is very simple. The first five sections deal with the establishment of the Bisti Wilderness area. This area is currently a Bureau of Land Management Wilderness Study Area under authority of Section 202 of the Federal Land Policy and Management Act of 1976. Originially it was part of the BLM's national wilderness review process, under section 603, but was dropped by the Secretary of the Interior pursuant to the so-called "under 5,000" acre ruling of the Board of Land Appeals.

The Secretary then agreed to continue the wilderness study process under the 202 provisions.

At that time the people of New Mexico spoke clearly. They said they wanted permanent protection for the Bisti WSA. A concensus developed in New Mexico from the environmental community, from energy users and from state and local government that the Bisti should be given permanent protection.

In Congress we had been moving in that direction. In 1980 we passed legislation instructing the BLM to enter a coal lease exchange process with a company which owned valid coal leases covered in the Bisti WSA. Those exchanges are very close to completion therefore in designating this area as wilderness. No complications are expected that will cause the BLM or others any problems.

(MORE)

Section six of the bill requires expedited further study of the De-Na-Zin Wilderness area. In fact the bill makes this a Congressionally mandated Wilderness Study Area. I would say to some who have expressed concern that the March 1985 deadline drops the area from wilderness review status if Congress does not act, that this is not my intent. It is nothing more than requiring the BLM to report back by a date certain with a recommendation.

In discussions with the BLM it is my understanding that they feel section six is unnecessary. That may or may not be the case depending on where the BLM will now go in their wilderness process with the De-Na-Zin.

Last fall in New Mexico there was a confrontation involving the drilling of a gas well in a wilderness area located within a wildlife refuge. That dispute raised issues that will in the years to come be the heart of what we call the politics of wilderness."

The confrontation last fall raised the split estate issue involving both the federal government and an oil and gas company as well as the state government of New Mexico. Although the matter went to the courts, it was later dismissed because of a subsequent legislative action. The same issue exists today. And it exists in the De-Na-Zin wilderness study area. Within the boundaries of the De-Na-Zin are located valid and existing oil and gas leases--some of which were issued before FLPMA and some are what are referred to as post-FLPMA leases. There is Indian Allotment land and also land that has been selected by the Navajo Tribe as part of the Navajo-Hopi land settlement act. Furthermore, there is located with the boundaries of the WSA hundreds of acres of split-estate land with the state of New Mexico owning the sub-surface rights.

(MORE)

Although these and other conflicts are within the WSA, the BLM in December released a Draft Environmental Impact Statement which glosses over these conflicts in a manner that I feel is inappropriate in light of the wilderness incident of late last fall. I, therefore, in order to speed up the process, decided to intervene in the on-going process rather than wait for an inadequate study to continue.

I do not believe that even a supplemental E.I.S. at this point would be enough to resolve the conflicts that have been pointed out to me. For instance, the current E.I.S. suggests that exchanges can be used to resolve these conflicts. However, no one has been able to tell me how you can resolve a gas lease exchange when nobody can agree on the value of the lease before the well is actually drilled.

If I have anything to say about it, never again will we have a conflict similar to the one we had last fall in New Mexico and I will continue to intervene in the process if I feel it will help us resolve these serious questions.

In closing let me say that I continue to strongly urge the Congress to protect the Bisti WSA with wilderness designation and that I am hopeful we can resolve the conflicts within the De-Na-Zin so it too can be included in our wilderness system.

# # #

Senator **Domenici** [presiding]. I think it is obvious that the inclusion of Bisti as a wilderness area to the extent described in the bill is one aspect that is well beyond the consensus status. I think that is going to become reality. Everyone kind of agrees on that.

Obviously the big problem is the De-Na-Zin and what should Congress do about it? I personally am very hopeful that we will avoid in some practical and prudent way the split estate issue that has arisen heretofore with a great deal of notoriety. We do have split estates. We have private lands. We have valid oil and gas leases. These are not things that we can, that we have to speculate about. They exist, and we have got to find the way to solve those problems that is both reasonable and fair.

Not the least in terms of interest is the interest of the State of New Mexico because of the split estate, and what they would get by way of future revenues, royalties, and the like due to existing situations versus what happens if we change that relationship.

We will ask the State for their views, both the Land Commissioner and the State government, with reference to what they consider to be the appropriate and best way to handle those problems that are obvious in the surrounding land that are not part of the 3,000 plus Bisti area.

Did anyone address that issue in my absence, the split estate, valid existing royalty oil and gas leases? Does anybody have any views on that? It is more properly an issue for State government and those who are generally affected directly as to those, but yes, Judy?

Ms. **Bishop**. Senator Domenici, in my remarks I said that the coalition did support Governor Anaya in his call for a moratorium until a thorough study could be done on coal leases, and we also support his position as far as trading out some of those lands so that we will have consolidated blocks, and as you mentioned, it will be much easier to work with if we do have that.

Senator **Domenici**. However, that wouldn't solve the split estate problems and the valid oil and gas leases. I understand that, the issue that you just addressed, but we also have the on-going problem that arose in the other wilderness area where there was a split estate in a valid lease. Salt Creek I think was the name.

Ms. **Bishop**. Right.

Senator **Domenici**. We have some of those pending in this area that could come up, and we have to find out what the State thinks about that and what we can prudently expect to do about that because I think it does have a bearing beyond coal leasing by the Federal Government of its interests.

Mr. **McComb**. Senator, I am John McComb of the Sierra Club, and this committee and the Congress has wrestled with that problem in a couple of other States—West Virginia and Florida—and they are not easy problems, but as you well know, there is high-level interest in this, and I would urge that whether it is part of that law or some other model, that a mechanism be found equitably to resolve those conflicting claims.

Senator **Domenici**. You mentioned Florida?

Mr. **McComb**. Wilderness legislation passed last year for both West Virginia and for Florida. That has the similar kind of problems with underlying coal and mineral resources, and the West

Virginia bill was signed into law by the President, including some exchange provisions, and the Florida bill was vetoed by the President.

Senator DOMENICI. Yes. The Florida one wasn't signed, was it?

Mr. MCCOMB. It was vetoed.

Senator DOMENICI. It carried a lot of money along with it in terms of the buy out, didn't it?

Mr. MCCOMB. It was not clear to us that the financial obligations of the Federal Government's liabilities were different with or without the bill, but the President argued that there were large liabilities associated with that.

Senator DOMENICI. And you are saying they were potential but there wasn't the certainty of it in your opinion?

Mr. MCCOMB. We are not convinced that the bill itself made any difference. That is just one model that might be used. I think there are others that would expedite exchange of those lands.

Senator DOMENICI. We will submit some questions to the State officials for the record. Timewise what are we looking at? Why don't we make it 2 weeks and ask that they be returned in 2 weeks.

Do you have any additional statements you would like to make? The record will be open for that period of time for inclusion.

Again, I thank all of you for giving of your time and coming here. We have got a very difficult issue on our hands, and we have got to resolve it in a prudent and fair manner, and we will try to do that.

Mr. SOPHER. If I might take just a little moment, I am Terry Sopher with the Wilderness Society. I would like to comment on one issue that was raised earlier before you arrived.

Judy Bishop was pointing out that there has been some discussion by BLM officials with the Interior officials and others about the question of why is wilderness designation needed for De-Na-Zin or Ah-shi-sle-pah as opposed to some other protective designations and the kind of designations that have been talked about at various times—research natural areas, areas of critical environmental concern and so forth.

There is a very important reason why those are not adequate. Under FLPMA, the Federal Land Policy and Management Act of 1976, BLM has very, very limited authority, regulatory authority, to protect nonmineral resources.

General standards outside of wilderness areas and wilderness study areas that FLPMA establishes for BLM regulation of lands is, quote, "Prevention of undue and unnecessary degradation."

Well, undue and unnecessary degradation has been defined by the BLM as whatever is acceptable is whatever goes along with normal operating procedures, so for instance, in hard rock mining, whatever normal operating procedures are in a public land, BLM cannot stop those activities under that standard, so if I am making myself clear, the only standard that BLM has is a very, very weak one.

If we don't have wilderness consideration, wilderness designation for these areas, the only standard BLM will be left with is one that will be so weak that the archeological and paleontological and Native American and cultural values and the ecological values on those lands will be destroyed. There is no doubt about it because BLM has no authority to stop mining activity short of having a wilderness designation.

Senator DOMENICI. Well, as I understand it, Secretary Carruthers did not address that issue that you just raised in his testimony?

Mr. SOPHER. I have not seen his written testimony. In his oral comments he did not.

Senator DOMENICI. They tell me he did not address it in his written testimony either. We will make inquiry about it. It may be relevant for areas outside of Bisti, but clearly it seems to me that at least both Senators from New Mexico are talking about wilderness, not about one of the other designations, and I appreciate your comments. That would apply to Bisti and would apply to the areas you described also, what you just discussed as to the Secretary's position that it should be something other than wilderness to protect it, and you suggest that the power to effect protection would be much less?

Mr. SOPHER. Yes, and just as a final note I point out to you that this was acknowledged by the Director of BLM, Robert Burford himself, many times over the past year, but for instance, in a June 23, 1982, memo to the Assistant Secretary he said, and I quote—this is talking about the so-called 3809 regulations, the regulations for hard rock, to control hard rock mining on the public land, and I quote. He says:

> When operators propose to conduct exploration or mining activities which cause a surface disturbance of five acres or less, they need only submit written notice to BLM fifteen days prior to starting operations. While the notice must describe the proposed operations and their locations and must contain a statement that the land will be reclaimed to the standard spelled out in the regulations, no approval is required.

In other words, BLM does not have to give advance approval before they start disturbing the surface. The Bureau then has 15 days to inform the operator about the resource values that may be in the area and those which, and he underscores if possible, should be avoided. In turn, the operator is to notify BLM when reclamation is complete so an inspection can be made. "The degree of protection thus afforded for the resource values involved is believed problematic at best." The claimant has the right to explore for the located mineral.

The 3809 regulations are not and were never intended to be a means to prohibit activity on a claim but are only a means to prohibit unnecessary and undue degradation, and as I said, that is an extremely weak standard that will not protect the kind of values involved in the San Juan Basin wilderness study areas or the fossil forest.

Senator DOMENICI. Thank you very much. Mr. Chairman, I have nothing further.

Senator WALLOP [presiding]. Senator Hecht.

Senator HECHT. No.

Senator WALLOP. Well, I appreciate your testimony here this morning. I want to suggest if those who will be testifying in New Mexico on the weekend wish to have their statements as part of this record, it is as I said open for another 10 days, and we would be happy to receive those.

Senator **DOMENICI**. Mr. Chairman, in your absence I indicated we were going to ask the Land Commissioner and the State some questions. If 10 days might be too short, I suggested in your absence that for the written response to have 2 weeks.

Senator **WALLOP**. That will be all right.

Senator **DOMENICI**. I thank the Chair.

Senator **WALLOP**. Ten days is more by rope than reason. The subcommittee stands adjourned.

Thank you very much.

[Whereupon, at 11 a.m., the hearing was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Action For Nuclear Disarmament
1520 Camino Amparo NW, Albuquerque, NM 87107, (505) 345-4809

May 18, 1983

Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources
United States Senate
Dirksen Senate Office Building
Washington, DC 20510

Dear Sirs:

Thank you for your letter of May 5 requesting suggestions conncerning the hearing on S.285, the bill to preserve the Bisti Wilderness Study Area as wilderness.

Action for Nuclear Disarmament in New Mexico has no official policy concerning this issue. AND is a single issue organization focussing on the dangers of the escalating arms race. Our primary concern is grass roots education on the "first strike" nuclear weapons and issues related to nuclear war.

Our board, however, felt strongly as environmentalists that the Bisti Wilderness Study Area be preserved.

Sincerely,
Elsa Sands
Elsa Sands, President

American Wilderness Alliance
4260 East Evans Avenue/Suite 8/Denver, Colorado 80222/(303) 758-5018

'83 MAY 31 PM 3:41

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May 27, 1983

Senator Malcolm Wallop, Chairman
Subcommittee on Public Lands & Reserved Water
Energy and Natural Resources Committee
Senate Office Building
Washington, D. C. 20510

Dear Senator Wallop:

This is to comment for the hearing record on S. 285 to designate the Bisti Badlands Wilderness in New Mexico.

We and our New Mexico members are well acquainted with the Bisti Badlands and their exceptional wilderness character. Their can be no question that the Bisti Badlands, as proposed for wilderness status in S. 285, qualifies under the 1964 Wilderness Act.

This small area needlessly has been threatened by coal strip mining. Surely, its speculative coal resources are not needed to meet the nation's energy requirements. Rather, the area's outstanding geologic features should be promptly designated and protected as New Mexico's first Bureau of Land Management wilderness.

We urge prompt passage of S. 285.

Sincerely,

Clifton R. Merritt
Executive Director

CRM:dbn

Working Together To
Conserve Wild America

CROWNPOINT CITIZENS ALLIANCE

P.O. BOX 155 • CROWNPOINT, NEW MEXICO 87313

May 25, 1983

Senator Pete Domenici
United States Senate
Washington, D.C. 20510

Dear Senator Domenici:

I am writing to you about Senate Bill 285, which you introduced. I am gratified by your action to preserve the Bisti Badlands, but I must tell you that protection should also be extended to the De-na-zin and Ah-shi-sle-pah Wilderness Study Areas. In addition, the Fossil Forest, a paleontologically unique and physically beautiful area, deserves protection as a wilderness area or some other status which will protect it for the general public of this generation and of future generations. As testimony at the Santa Fe hearing of May 21 showed, even if all of the aboveareas are preserved, less than 2% of the San Juan Basin will have protected status. In addition, less than 1.5% of the coal in the Basin will be precluded from development. That is a small price to pay for the benefits derived from protecting those areas. I urge you to amend S. 285 to extend its protection over the above-mentioned lands. Thank you for your consideration of my views.

Sincerely,

Paul

Paul Fyfe

xc: Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources.

New Mexico
WILDERNESS STUDY COMMITTEE

9601 Haines Avenue NE
Albuquerque, New Mexico 87112
May 27, 1983

Chairman, Public Lands and Reserved Waters
Sub-Committee Of Senate Energy and Natural
Resources Committee
Dirksen Senate Office Building
Washington, D.C. 20510

REG: S-285 —A Bill To Preserve The Bisti
WSA As Wilderness

Dear Sir:

Except for Section 6 of the last paragraph of Bill S-285, the Bisti Bill looks OK as far as it goes. Section 6 which postpones Wilderness Study of the De-Na-Zin WSA for several years is not needed or deserved. BLM has made a thorough study of the three WSA's and have documented their proposals in the Draft Environmental Impact Statement. While there are some problems with BLM's proposed 19,922 acre De-Na-Zin Wilderness, as stated in Alternative 1 on page 1-13 of the Draft Environmental Impact Statement. "This Alternative was developed and analysed to eleminate several existing and potential land status issues that occur within the boundaries of the present De-Na-Zin WSA." This Alternative seems like a step in the right direction but I believe a better altermative can be developed along these lines with between 10,684 and 19,922 acres of badlands as Wilderness and a substantial area classified as a (ACEC) area of critical Environmental concerns. Some Federal coal lands should be exchanged for State coal lands within the existing De-Na-Zin WSA.

Under Summary page V of the draft Environmental Impact Statement it states " Partial Wilderness designation of either the Bisti or the Ah-Shi-Sle-Pah WSA is not considered to be a reasonable alternative because of size, location, and activity on adjacent lands would make either WSA unmanageable as a partial area, so all 3,966 acres should be included in the Bisti Wilderness and all 6,563 acres of the Ah-Shi-Sle-Pah WSA included as Wilderness.

The Badlands Wilderness Coalition of Conservation Organizations have been doing field study work and enlarged the WSA's to include badland formations that should have been included in the BLM WSA's. Dave Glowka, Ph 281-1488 of the Sierra Club and Jack Kutz, Ph 255-9781 of the Wilderness Study Committee have both done field work on these areas and can speak from first hand information. Their map shows the Fossil Forest as a WSA. They have both been in the field and know the situation better than I.

Wilderness Ethic • Indoctrination • Preservation • Qualification • Accreditation • Evaluation • Dedication • Education

The final decision is made by Congress, and though there is a wealth of coal under these badlands areas, Page B-8 of the draft EIS states Unleased or unclaimed minerals would be preserved by Wilderness designation but could be made available through Congressional action in the event of a critical mineral (coal) shortage.

Princeton University, Los Alamos National Laboratory, and Sandia National Laboratories are each running close competition to develop the Fusion Reactor to produce unlimited amounts of power from the Hydrogen in sea water by the year 2025. Colorado, Utah, Wyoming and the Dakota's are competing for the coal market. The coal market has gone soft in New Mexico. Raton coal mine which has a better grade of coal and access to a railroad has had to lay off about 300 miners and reports are that they may have to close down indefinately. Santa Fe Railroad is reluctant to invest it's money in a Star Lake-Bisti Railroad. New Mexico Legislators are cautious about investing State funds for this railroad also. Governor Anaya could be right, that now is not the time to dump more cheap coal on the New Mexico soft market.

BLM should not be in a hurry to lease coal in WSA. The Badlands formations are generally found where the coal is close to the surface. This is also the most desired coal leasing land by mining companies since it will be less expensive to remove the overburden.

Much stripminable coal is available in the San Juan Basin, about 30 billion tons. The coal under the Bisti is only about 0.3% of the total, under the De-Na-Zin about 0.47 % and under the Ah-Sli-Sle-Pah about 0.9%.

In addition to the badlands formation there is also paleontological resources (Fossils), archeological sights, Wilderness resources (Solitude), unconfined recreation and naturalness that must be protected from the miners draglines. Many of these features are clustered together in the WSA's.

The Fossil Forest was considered for Wilderness but Dr. Keith Rigby, a paleontologist for the BLM mentioned that it should have been made a National Park and it was published in the Albuquerque Journal. (See enclosure). It is my understanding that the area is now roaded by off road vehicles and most of the Fossils and Petrified logs have been hauled away. Although Dr. Rigby knows of the importance of the Fossil Forest, he also knows that the important secrets beneath the surface under the Fossil Forest will never be known unless it is mined. Many of the secrets may not be known if it is mined with too much haste. Possibly a seperate bill by Congress similar to the bill by Congress in 1980, directing the Land agencies to study and preserve the outlying Chaco Canyon Ruins, it seems to have produced results. Most of the paleontological secrets are apt to be covered up by the miners draglines unless professional paleontologist are on hand to oversee mining at the most promising sites. Lets slow down and do the job right. The value of the coal will cover the cost.

Please get Wilderness Classification for the three (3) WSA's before the miners get their hands on them. It is my understanding that once a WSA is classified as Wilderness no new mining leases will be let in that area and existing coal leases will be exchanged for Federal coal lands outside the Wilderness. We must act now before BLM starts letting coal leases in WSA's.

Sincerely Yours,

Milo M. Conrad

Milo M. Conrad
Past Director and Founder
New Mexico Wilderness Study Committee

copies to:

Senator Pete Domenici
Senator Jeff Bingaman
Congressman Manuel Lujan, Jr.
Congressman Bill Richardson
Congressman Joe Skeen
Congressman John Seiberling
Congressman James Weaver
Governor Toney Anaya

Enclosure

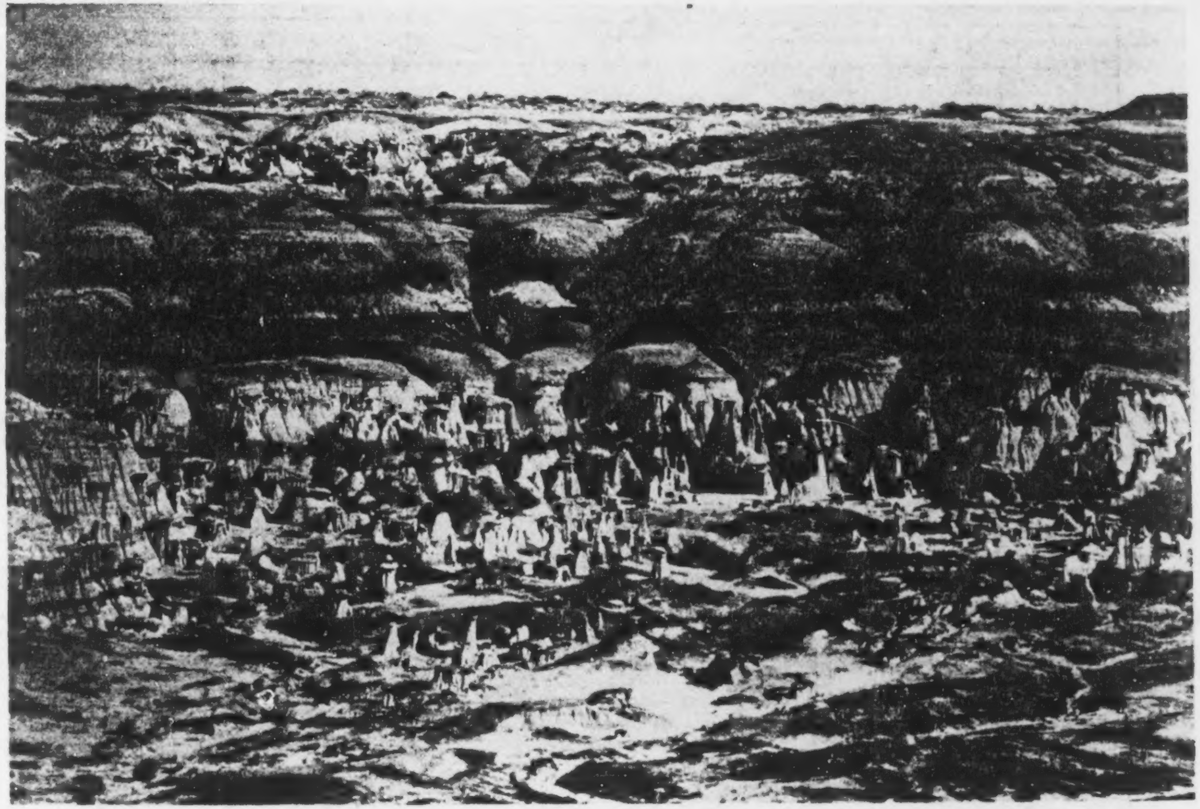


Figure 1-1 Looking from northwest to southeast within the Bisti WSA. This view shows the topographic transition from a wash to eroded sandstone formations ("hoodoos"), billowy mounds of siltstone, and pockets of hoodoos rising to the flatlands.

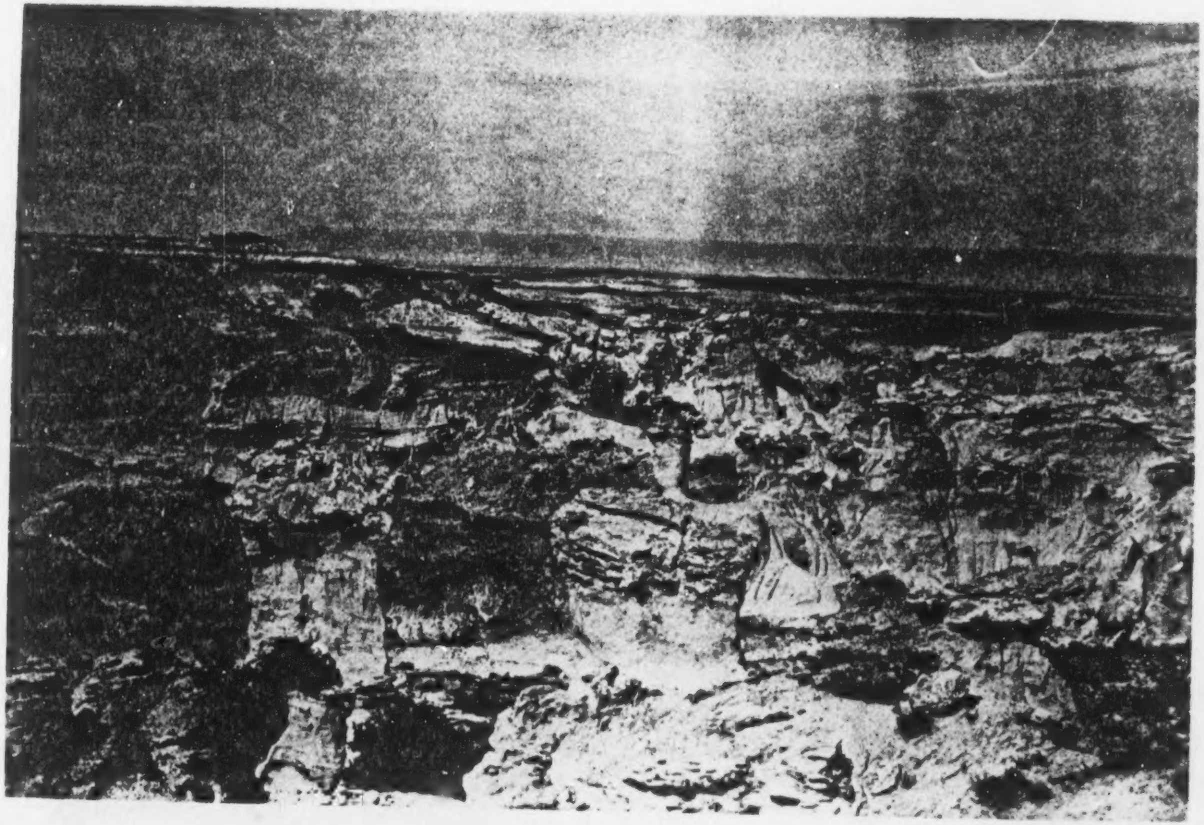


Figure 1-6 The rugged topography of the De-na-zin WSA, as viewed in a westward direction towards the Chuska Mountains.

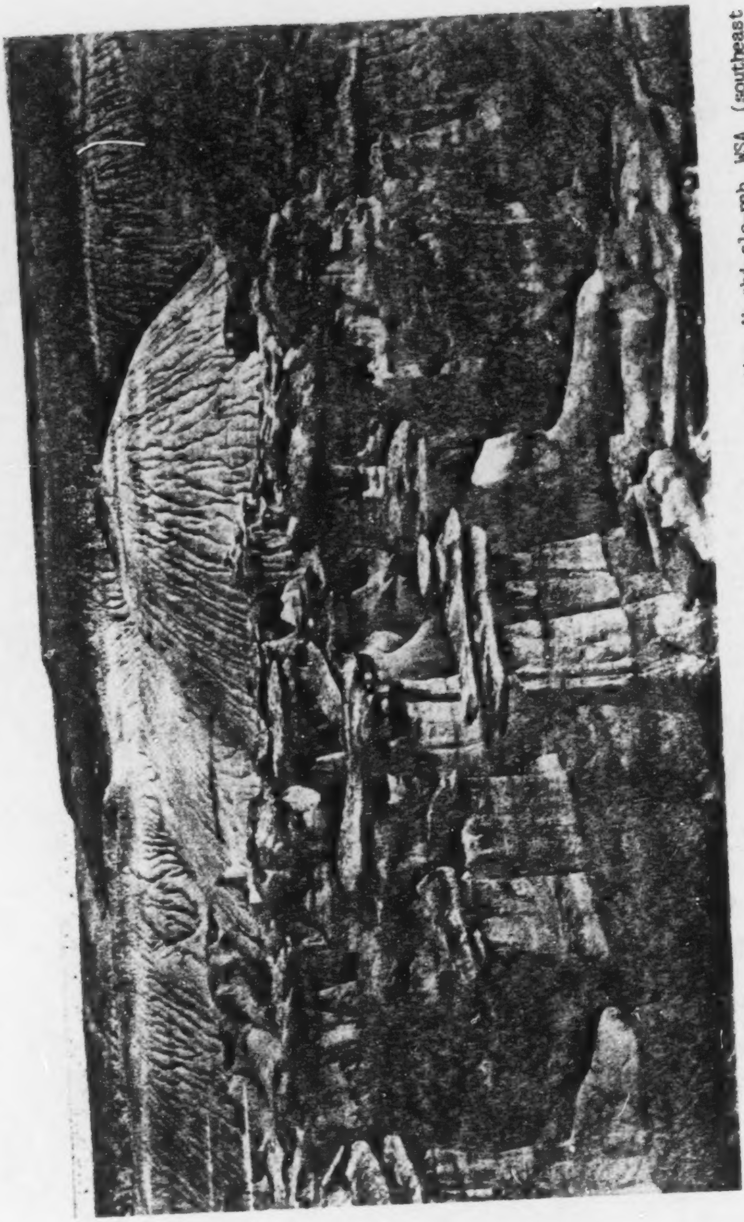


Figure 1-7 Shale-capped sandstone "mushrooms" and hills of siltstone in the Ah-shi-sle-pah WSA (southeast portion).

P-1 Wednesday Morning, October 19, 1977

Fossil Bed Fate Up for Grabs

By PAMELA BEERER

The land is spacious. Sagebrush flats stretch for miles, forbidding habitation. Irregular monolithic outcroppings dare to break the linear horizon, reaching boldly into the azure sky. Struggling junipers cling to the sterile soil while emaciated horses gnaw a meager meal of grass and thistle.

The land is northwestern New Mexico, a land with few invitations. People drive through with their windows closed and their air conditioners on. They may stop for gas or visit an Indian trading post, but they seldom stay.

Yet the times they are a-changing, and this barren earth is expected to reveal a bonanza. For beneath the sagebrush and sandstone lie some of the most desirable coal beds in the state, and some of the most important vertebrate fossils in the world.

The discovery of these two monumental resources, sandwiched in an area north of Chaco Canyon National Monument, has posed a problem of equally monumental proportions: how to develop needed energy resources in conjunction with the preservation of one of the

Continued on A-8

Journal Photo by Richard Pipes

Dr. Keith Rigby, left, and BLM's Rodney Harris Looking Over 75-Million-Year-Old Conifer Tree Trunk

world's foremost dinosaur and mammal fossil collections.

The problem and all its ramifications has drawn the attention of scientists, academic societies and other professionals across the country, including all four of New Mexico's U.S. Congressmen. The four have pledged their support in helping not only to preserve the fossils, but to establish state natural history museum in which they could be displayed.

On April 29, 1977, President Jimmy Carter released a national energy plan designed to help solve the nation's energy crisis through increased use of domestic coal reserves. In so doing, he invited coal companies to issue proposals for strip mining vast coal reserves on federal lands, much of which is in northwestern New Mexico. Other major reserves on federal land are in North and South Dakota, Montana, Wyoming, Colorado and Utah.

In New Mexico, 10 companies answered his call with proposals to mine 12 locations within a total approximate area of almost 500,000 acres, not including state, Indian and private lands. The proposed leases, made by Arch Minerals, Amcoal, Carbon Coal, Chaco Energy, Consolidation Coal, Eastern Associated, Freeman-United, Peabody Coal, Salt River Project and Western Coal, stretch through a 70-mile diagonal extending from the Navajo Indian Reservation on the west through San Juan County north of Chaco Canyon National Monument to the northeastern corner of McKinley County on the east.

They encompass what Charles Hunter, vice president of Western Coal, calls some of the most desirable coal in the San Juan Basin. He explains that it is of high quality both because of the number of BTUs (a measurement of heat) produced by a pound of coal and because of its low sulfur content, a particularly important factor in light of Environmental Protection Agency regulations.

Last month a CBS television special examined the pros and cons of coal. It has two advantages not shared by oil, natural gas or nuclear or thermal power, said the program. It is available and it is relatively inexpensive. CBS estimated that the country has enough reserves to last at least 200 years, and the program explained that compared to other fuels, coal can be strip mined with minimal equipment, manpower and safety precautions.

But strip mining has its problems. CBS noted there is a major disturbance of soil. An extensive network of railroads is necessary to transport the coal from the mine to the power station where it will be used. And there are major problems with air pollution and waste disposal.

Because of the physical distress caused by strip mining, all new leases on federal lands were suspended in May, 1971, by then-Secretary of the Interior Rogers Morton. The moratorium was to allow the department time to re-evaluate its mining program and prepare and distribute a draft environmental impact statement (EIS). The statement was published in its final form in 1975.

2

When President Carter re-opened federal lands this spring to strip mine leases with the provision that coal operators return the land to its approximate original contour, vegetation and drainage, a new suit was filed by environmental groups in U.S. District Court.

The suit resulted in an injunction filed Sept. 27, halting the government's new western states coal-leasing program. In a 20-page opinion, Judge John H. Pratt said the Interior Department had not produced evidence that the new coal leases were needed and it had not properly explained the regulations implementing the mining policy. He said both issues must be addressed in a new EIS to be completed in about six months.

According to the National Resources Defense Council, a plaintiff in the case, the injunction is not expected to have a significant impact on the present availability of coal since it does not affect what is now available under pre-1971 leases. The Council claims that approximately 26 billion tons of potentially recoverable coal are already under federal lease and will provide enough fuel for the next 121 years.

Prior to this suit, however, the Albuquerque office of the federal Bureau of Land Management (BLM) had already been preparing its own hefty EIS on the 12 proposed mining leases on federal lands in New Mexico.

As the agency responsible for both the administration and management of the lands in question and the body responsible for making specific recommendations on proposed leases, the BLM is incorporating the comments of numerous professionals and consultants. It will address the 12 proposals in light of the estimated energy needs, as well as the environmental impact of that activity on the surrounding territory.

A mammoth under-taking, the EIS will include data on soil, vegetation, paleontology, archeology, meteorology and hydrology for 4.8 million acres within the San Juan Basin. It will also discuss the socio-economic impact of an estimated population increase of 70,000 (the total combined population of Farmington, Aztec and Bloomfield today) within six years following the award of mining leases. According to present schedule, the preliminary draft of this EIS will be done by Dec. 1.

Pollution and population problems notwithstanding, the BLM is particularly sensitive to the effects of massive soil disturbance in an area known throughout the world for its classic fossil collections.

Dr. Keith Rigby

"New Mexico is internationally famous for its fossil material," says Dr. Keith Rigby, a paleontologist hired by the BLM to assess its fossil resources. "Two whole floors of the American Museum of Natural History in New York are devoted to fossils from New Mexico, yet the public here is not even aware that they exist."

Rigby, zealously protective of the resources of his science, goes on to explain that certain sites within the proposed mining area exhibit fossils found in only three other places in the world. "The Kirtland-Fruitland formation (the geologic bed in which most of the coal deposits lie) has been a major classic reference system for a 100 years for the dying out of the dinosaurs and the beginning of the diversity of the mammals 65 million years ago. Out of 1,000 to 1,500 professional paleontological papers, there's not one that hasn't compared the fossils found in New Mexico."

Rigby identifies the other three areas of prominence as a location stretching across the Wyoming-Montana border; Alberta, Canada; and Mongolia.

Because coal mining and fossil collecting make strange bedfellows, the BLM was eager to identify the extent and pinpoint the locations of the resources. To do this, it hired a team of scientists led by Dr. Barry Kues, an invertebrate paleontologist from UNM.

Kues and his associates, Dr. Jeffrey Froehlich, UNM assistant professor of anthropology, and Dr. Judy Schiebout, a vertebrate fossil expert from Louisiana State University, as well as 10 students of geology and anthropology, spent three months on location identifying and [illegible] ing 1,400 specific localities of fossil deposits.

Kues named six to eight areas, each of which include several fossil localities, that he would consider analogous, from a paleontologic standpoint, to Chaco Canyon National Monument. He feels that they should be set aside as preserves and mining should be prevented. Some of the mammal localities, he adds, are in formations which don't have coal, but should be protected from other types of land use. There are hundreds of other localities where Kues recommends paleontological excavation before mining takes place because there is enough surface indication to suggest that they, too, have important fossils.

"The value of this area cannot be overemphasized," he says. "The paleontological information provided by those fossils will vastly increase our present knowledge. There are fossils that we have never seen before and fossils that complete information we do have. There are few places in the world (like this coal mining area) where you can find the numbers of dinosaurs and mammals that provide a whole picture of paleoecologic relationships from the stream beds to the forests."

To become acquainted with the virgin expanse that in five years may be crawling with both paleontologists and seven-million-pound drag lines, Rigby, BLM assistant district manager Rodney Harris, Journal photographer Richard Pipes and I spent a day scouting various formations and fossil localities.

Looking for fossils on the naked "elephant backs" that dot the area makes you feel like you're combing a swimming pool for a contact lens. Your step must be soft and your eye sharp to notice the minute particles of bone from turtle shells, crocodile plates and dinosaurs, many of which date back 65 million years.

Rigby spies a pile of broken rock and immediately pieces two segments together, identifying them as parts of a mammal jaw. With a gleam in his eye, he pops a piece in his mouth to clean it off, exclaiming that to swallow it would be like swallowing a diamond ring. He then adds it to a pill bottle containing a collection of other gravel-sized particles which he keeps in his pocket.

As we drive to a new location and then hike across one sand dune after another with no relief from the intense afternoon sun, Rigby talks excitedly about the fossil forest. When we arrive, we're surrounded by stumps and fallen logs which he identifies as palm trees and conifers. "Anywhere in the country this would be a national park," he says, adding anecdotes about the awesome reac-

NAT'L PARK

A-8 ALBUQUERQUE JOURNAL Wednesday, October 19, 1977

Battling Over Buried Bonanza

tions of his fellow paleontologists upon discovery of this site.

He goes on to explain that this particular location gives a mini-picture of what the Kirtland-Fruitland looked like 75 million years ago. He points out the transition from the stream channels to the levees to the swamps to the forests, picking up fragments of mollusks, clams, turtles, crocodiles and dinosaurs to document his theories.

He adds: "There's not much museum quality material on the surface, but there's no question about what is underneath. When there's this much on top, I know I'm going to find them intact under the surface. I want to know who, what and how much is there."

Rigby and Kues are both positive that the fossils on the surface represent only a fraction of what is actually present and that the potential for new discoveries is great.

Our next stop is what's known as the Bisti Badlands, part of which is included within the present boundaries of an area already leased by Western Coal. And badlands it is, with not a sprig of vegetation to be found. But its toadstool formations stand like groups of traders in a marketplace trying to make a deal. Our human forms are as much an intrusion as if we were on another planet.

Amidst these peculiar geologic pedestals lies the best museum quality specimen of a fossil tree Rigby has seen. He estimates its original height at 200 feet and dates its existence to 75 million years ago.

Just as government officials and energy producers feel there is no doubt about the need for alternative energy sources, there is also no doubt among paleontologists that the proposed coal mining sites in New Mexico harbor some of the finest fossils in the world. Both factors demand consideration from the coal companies and the BLM.

The coal companies undeniably are interested in cost-efficient production. At the same time, however, if leases are awarded they must return strip mined land to its approximate original condition. Many environmentalists wonder how the toadstools of Bisti could possibly be reconstructed.

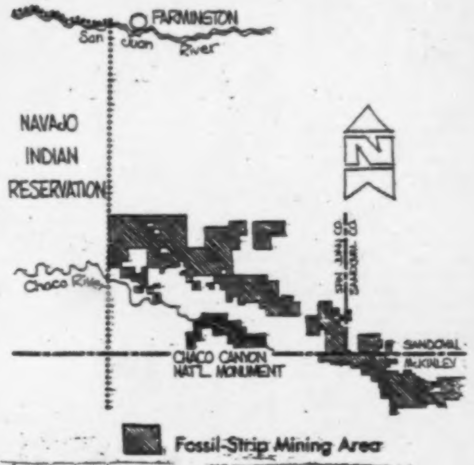
The BLM, while it must consider the greatest good for the most people, is mandated by the Federal Land Policy and Management Act of 1976 to manage public lands taking into account both renewable and non-renewable resources "with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return."

A seeming conflict of interest develops when you take into account the actual operation of a coal mine and the preservation of fragile fossil material.

A strip mine is a massive financial and physical operation. It requires thousands of acres of direct disturbance, sometimes up to 175 feet deep. For example, Western Coal's Hunter says that his company, a jointly-owned subsidiary of Public Service Company of New Mexico and Tucson Gas and Electric, proposes the use of three $9.6 million drag lines on the present Bisti lease, an area containing approximately 6,400 mineable acres.

Each drag line, which can hold three pick-up trucks in its scoop, will first make box cuts on the surface to take away anywhere from 20 to 160 feet of overburden, the unusable land above the coal seam. When the seam is exposed, it is drilled and blasted. The broken chunks are then carried to a crushing plant. After crushing, the coal is put on a truck or train, depending on the distance to the power plant.

In addition to the drag line and blasting disturbance, which will draw out an estimated total of 102 million tons of coal in 20 years on the present and proposed Bisti leases alone, the mining development requires a support system of railroads, roads


FARMINGTON
San Juan River
NAVAJO INDIAN RESERVATION
N
SAN JUAN
SANDOVAL
Chaco River
CHACO CANYON NAT'L. MONUMENT
SANDOVAL
McKINLEY
▨ Fossil-Strip Mining Area

Closeup of Piece of Mammal Jaw from Area Known Throughout World for Fossils

4a Sheet as H— rating

4

for trucks and cars, transmission lines and possibly an entire company town. The cost of such a project, including construction, payroll expenses and social services, runs well into the tens of millions of dollars. And this is an expense not limited to Western Coal's Bisti alone.

According to Rigby, who has thoroughly reviewed each company's proposal, 80 to 90 per cent of the total coal production will be controlled by four companies — Western Coal, Chaco Energy, Arch Minerals and Eastern Associated — all of which will require extensive support systems.

In contrast, the fossil-recovery operation requires picks, shovels and sifters and a team of expert personnel who could operate on a budget one-tenth of a per cent as much.

But obviously, the results won't burn or grow or keep our houses warm when there's snow on the ground.

In trying to explain the relevance of his science, Rigby stresses its importance to the understanding of evolution, to past ecologic systems and to the megascope of man's actions in a universal scheme of existence.

"What it boils down to," he says, "is the validity of the science versus the economics of coal. And I think if handled properly, paleontology can work very well with industrial resources.

"If correct techniques are used, mining could be a definite asset to paleontology — or it could be the worst screw up."

With the philosophic support of numerous other professionals, academic societies and legislators, Rigby faces several hurdles when it comes to determining mitigation procedures and details of a salvage operation.

The first step is to reach some agreement for mitigation with the coal companies. In the recent proposals, only one company, Western Coal, has included any specific plan which is, according to Rigby, inadequate.

There are three alternative mitigation procedures, he explains. One would set aside certain areas where major paleontologic excavation would take place and mining would either be prohibited or delayed. A second would allow selective paleontological excavation prior to mining. And a third would permit an examination of the spoil piles and exposed beds before restoration is begun.

Assuming some sort of mitigation compromise is reached, money, personnel and a repository are needed to adequately excavate, catalog and display the important specimens. Both

Western Coal's San Juan Mine, Dragline ...

Rigby and Kues explain that it is not necessary, and not even desirable, to salvage all the fossils.

It is vital, however, to take enough samples to represent the geographic and stratigraphic distribution of both dinosaurs and mammals, as well as their variability in phsical characteristics.

Dr. Keith Rigby Examines Ancient Turtle Shell in Stream Bed

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5

Showdown

Continued from Page A-1

to work out some way to trade their mineral lease on Section 32 for something somewhere else," Glowka said.

The club is worried that the mine will destroy the value of the surrounding area as wilderness, forcing the BLM to open it to mining.

SUNBELT HOLDS A coal-mining lease in a portion of the study area. Congress has authorized Sunbelt to trade the lease for one elsewhere, but the Sierra Club is accusing the firm of dragging its feet.

Sunbelt and PNM officials, on the other hand, have said they need the coal to help fire PNM's San Juan Generating Station a few miles south of the study area. The station is now using coal from an adjacent mine, but the mine will soon run out, they said.

Sunbelt officials said they've already made commitments for the coal that can only be fulfilled on time by the Gateway Mine.

BESIDES, PLENTY of other badlands in the area will remain intact for the public's enjoyment, they said. The mine will provide lots of jobs and tax revenues.

And Sunbelt officials said they've approached the state about working out a lease exchange — but the state turned them down.

The state Land Office said an exact trade would have been too difficult, that Sunbelt's existing lease is in order and that the state encourages coal mining.

Sierra Club officials dispute most of this, and Sunbelt has readily returned the favor.

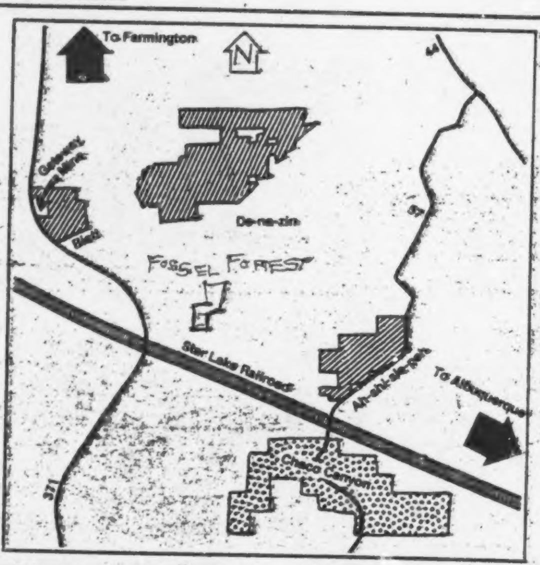
TUESDAY'S HEARING is an appeal of the state Energy and Minerals Department's ruling in favor of Sunbelt. It will be the last administrative remedy the club can pursue.

Glowka said the club would probably take the miners to court if environmentalists lose Tuesday.

Glowka said he's worried that if the Sierra Club loses on this issue and the Bisti topples, two other badlands wilderness study areas nearby will fall, too.

THE BLM HAS established a 7,122-acre Ah-shi-sle-pah wilderness study area some 10 miles southeast of the Bisti, just north of Chaco Canyon National Monument, and a 16,000-acre De-na-zin study area just 3 miles east of the Bisti. Both areas are owned by the BLM and are filled with similar odd formations.

The Sierra Club last year lost a battle in its attempt to spare the As-shi-sle-pah from strip mining when the BLM decided to recommend that the area, which is covered by preference-right mineral leases, be open to such mining. The BLM has recommended the De-na-zin as a wilderness.



THE STATUS OF both areas is ultimately up to Congress, and until that decision is made both areas are protected.

Glowka said his group's hopes for rescuing the two areas would be grim if the Bisti — sometimes considered to be the most appealing of the three sites — were mined.

Many other developments are pending in the badlands area as well. Glowka said the Sierra Club has joined with several other groups to form the Committee on Coal to deal with concerns during the coming months.

Here's what's on the agenda:

●The Santa Fe Railway is pushing to build a new Star Lake Railroad spur that would pass by the Bisti and the As-shi-sle-pah and the nearby Chaco Canyon National Monument.

The spur is designed to haul coal from the badlands area and would serve the Gateway Mine and others. The progress of the spur is currently stalled as railroad advocates attempt to condemn land owned by Navajos for easements.

●PNM is planning to build a big, new power-generating plant a small distace south of the proposed Bisti wilderness, plus a new town nearby that would support the plant. The plant would burn coal from nearby fields.

Meanwhile, PNM's San Juan plant is asking to expand its existing coal field.

●The BLM owns or controls the mineral rights to most of the lands in the badlands area. The BLM is currently moving to divest itself of many of those rights.

It's expected that the BLM by the end of 1983 will have leased out rights to as much as 3.5 billion tons of coal in the general area.

●The BLM is also working out a couple of coal-lease exchanges that could affect the area.

One is the exchange with Sunbelt for its lease in the Bisti wilderness study area.

The other involves the proposed PNM power plant.

In this exchange, the BLM would gain substantial tracts of land on Ute Mountain north of Taos and next to the Rio Grande. PNM would get the lands it wants for its power plant.

●The BLM is planning to hold a series of public hearings beginning in December on a raft of environmental impact statements involving the land exchanges, the mineral-rights leases, the PNM power plant, and the wilderness proposals.

BLM officials say final decisions about all of these matters should be reached during 1983.

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HENRY F. (HANK) POHLMANN
M.L. (MOE) SEELINGER

May 17, 1983

TO:

Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources
U. S. Senate
Dirksen Senate Office Building
Washington, D.C. 20510

SUBJECT: Bisti Wilderness Bill S. 285 Comments

INTRODUCTION: These comments were solicited by Senator Jeff Bingaman via a letter dated May 5, 1983.

The views expressed here will not be welcomed by Senator Bingaman and other professional politicians with similar interests and roots, but I want them to become part of the record.

QUALIFICATIONS: I am a self-employed professional engineer-geologist-artist.

I have 20 years of work experience in the Bisti Area.

My main interest and experience is in coal, oil and gas.

I also have much Indian expertise and was Mineral Supervisor for the Navajo Nation for 5¼ years.

COMMENT: Professional politicians, full-time environmentalists, plus anti-development federal and state employees have enjoyed so many Bisti Area energy related meetings during the past 10 years that I've lost count.

The Bisti Area has been met and studied to death. It's all been said at least 100 times, but now a whole, new round of meetings are starting. This hearing is one of them.

Professional politicians hold these meetings, so it appears all sides are being heard. Actually, these functions are only stages for the well organized, radical and well informed environmentalists. This hearing has promise of taking first prize in this regard.

During April, 1983, the Bureau of Mines - U. S. Department of Interior published a report, "Mineral Investigation of the

Page Two
Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources
U. S. Senate
May 17, 1983

Ah-shi-sle-pah, Bisti and De-na-zin Wilderness Study Areas, San Juan County, New Mexico."

One section of the report states, "Demonstrated reserves of coal, minable by surface methods, in the Ah-shi-sle-pah and Bisti W.S.A.'s are valued at $4.1 billion and $3.2 billion respectively, and could produce corresponding royalties of $510 million and $396 million. Demonstrated reserves of coal, minable by underground methods, in the De-na-zin W.S.A. are estimated to be worth $2.6 billion on the market and $213 million in federal royalties."

A 5/4/83 oil and gas report states Dugan Production has just completed a commercial well in the southern portion of the De-na-zin W.S.A. The well is located in Section 27 of 24N-12W, San Juan County, N.M. Initial production was 30 barrels of 40° oil and 30,000 cu. feet of gas per day from the Gallup Zone.

I suspect the very tough and capable Indian forces will also be well represented at this hearing. Do the subcommittee members know the Navajo Reservation consisted of 2½ million acres in 1868 and now it's called the Navajo Nation and is probably 25 million acres big?

Do the subcommittee members know one P.R.L.A. covers almost 23,000 acres and only 5 hogans (Indian homes) are present? All of the 5 residents are considered "unauthorized" by the B.L.M. Plainly put, no legal residents are present on the entire permit area. Is this the impression you acquired at the hearing?

If past area experience means anything, the Navajo people will benefit more from a new Bisti Area mine than any other group. Utah International operates two coal mines in this general area. During 1982, Utah mined 12,055,404 tons of coal. Utah employed 792 persons with a payroll of $26,634,586.00. 78% of the work force (618 people) were Navajo.

CONCLUSIONS: It is time to take off the rose colored glasses. Take a good look at Ah-shi-sle-pah for example. This never was and never will be W.S.A. material. This is a political W.S.A. This is a desolate, dry bones land surface on top of what is probably the best shallow coal in the whole State of New Mexico. This is optimum strip mining country. New Mexico also contains a great deal of De-na-zin type country without oil, gas and coal beneath the surface.

Hank Pohlmann
Hank Pohlmann
Date:

HP/oh

THE RIO GRANDE CHAPTER OF THE SIERRA CLUB

May 25, 1983

Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources
United States Senate
Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman,

I would like to offer the following observations as support for the Sierra Club's position that the Bisti Wilderness Bill, S. 285, should be expanded to include wilderness designation for the De-na-zin and Ah-shi-sle-pah Wilderness Study Areas and protection of the Fossil Forest as a scientific preserve:

1) The proposed areas for preservation are much smaller than the proposed areas for coal leasing in the San Juan Basin. If balanced coal development is the goal, then balance calls for preservation of at least these four areas of the Bisti Badlands.

2) The coal reserves in these four areas contain less than 2% of the federal coal reserves in the San Juan Basin.

3) These four areas cannot be reclaimed as required by law.

4) Thousands of New Mexico conservationists follow the Bisti issue very closely and support preservation of these four areas. All the major environmental groups support this proposal.

Evidence of this support was clearly demonstrated at the Santa Fe field hearing held by the House Subcommittees on Mining and Public Lands on May 21, 1983.

5) The State of New Mexico strongly supports the designation of all three WSA's as Wilderness and has pointed out that, even with their designations, the amount of land in the San Juan Basin that would have Wilderness protection would be less than the state average of 2%. The State of New Mexico is currently studying the proposal for designating the Fossil Forest a scientific preserve.

6) State Land Commissioner, Jim Baca, has publicly stated that he is interested in trading state lands in the De-na-zin area for BLM lands elsewhere in order to block up the Wilderness Study Area and eliminate the split estate problems. There should, therefore, be no opposition to Wilderness designation because of split estate problems.

7) The Navajo Tribe has publicly stated that it would drop the lands it has selected in the De-na-zin, Ah-shi-sle-pah, and Fossil Forest under the Navajo-Hopi Land Settlement Act and that it supports preservation of all four areas. The Sierra Club supports the rest of the Navajo Tribe's land selection in this region.

8) Local Navajo residents have publicly stated their support for Wilderness designation of all three WSA's in the Bisti Badlands.

9) Members of the scientific community, including archeologists and paleontologists, have publicly stated their support for preserving these four areas.

10) Arch Minerals, who holds a PRLA in the Ah-shi-sle-pah WSA, has publicly stated that it supports a delay in the leasing decision there until Congress decides the fate of this WSA.

It thus appears that, other than a few, isolated pro-development concerns who are unwilling to support balanced coal development in the San Juan Basin, the support for preservation of at least the three Wilderness Study Areas is unanimous. Likewise, we expect preservation of the Fossil Forest as a scientific preserve to gather unanimous support as more people study the area and come to realize its tremendous potential for scientific research and education.

I urge the Senate Committee to study the transcript of the House field hearing and to incorporate it into the Senate's record. The wishes of the hundreds of people who attended that hearing should not be ignored. The political groundswell that this hearing illustrates is here to stay.

The leaders of the various conservation organizations, many of whom are volunteer activists and therefore are capable of extreme persistence and dedication to this cause, will be watching the Senate's actions very closely and will be reporting those actions in great detail to the thousands of interested conservationists throughout New Mexico and the nation.

Sincerely,
Dave Glowka

Rio Grande Chapter
of the Sierra Club
Star Rt Box 282B
Tijeras, NM 87059
(505) 281-1488

SOUTHWESTERN NEW MEXICO AUDUBON SOCIETY

P. O. Box 1473, Silver City, New Mexico 88061

May 20, 1983

Chairman
Committee on Energy and Natural Resources
United States Senate
Dirksen Senate Building
Washington, D.C. 20510

Dear Sir:

The Southwestern New Mexico Audubon Society of some 91 members would like to be put on record as favoring the creation of the Bisti Badlands Wilderness area. Its uniqueness as an area, its value scientifically in many fields including paleontology, geology and biology make it a necessity to hold for future research. Its odd and fascinating surface structures can attract visitors to our state as well as furnish interest to our local people.

No proof has been established as to the necessity of mining the amount of coal contained in these areas. The building of a coal fired generator has been postponed for several years due to the lessening demand for generation of power.

According to our media information our Secretary of State Watts has been selling coal leases at give-away prices. To have this happen in this state would cause the loss of millions of dollars.

The value of the Wilderness areas in paleontological research is great. It is known that fossils found there have never been found elsewhere. The geologic dating of the area places it during the shift from reptilian dominance to mammalian dominance. Much research should and could be done in the Bisti.

We believe that, in order to protect this valuable resource, these should be established as Wilderness Areas.

Sincerely,

Hiram L. Parent

Hiram L. Parent, Pres.

March 21,1983

Dear Director. of BLM, New Mexico

We are in opposition to the releasing of PRLAs in the San Juan Basin New Mexico. And we disagree with the results of the EIS in the neglect of the cultural resources which would be destroyed if development were to occur.

First the Environmental Impact Statements do not discuss the exacerbation of haze, air pollution and acid rain which could effect visibility of geological formations and archaeological sights especially in Chaco Canyon National Park.

It does not indicate enough the inefficient water supply in the arid Basin and th e effect on the land on the lowering of the water table which would lead to land erosion and destruction of historic sights.

In the Coal Leasing EIS there is no analysis of where and how the coal areas can be reclaimed. It says it would take 15-20 years; this needs clarification.

Surveys of archeaological sites are only 30% completed for the PRLAs 20% on competitive leases have not been surveyed at all. Under "Mitigation" (p3-51) only one site is mentioned as being preserved. The BLM must do more surveys to determine the impact of leasing on Chacoan and outlier sites.

In the Cumulative Overview there is no discussion of the psychological impact and the loss of the cultural heritage of the American Indians due to relocation and vadalism of sites as well as no mention of the destruction of archaeological sites which have the future potential to reveal more about the Ancient

Indians of the San Juan Basin.

In the No Action Alternative the release of the PRLAs is not a true no action. Nothing changes in relation to archaeological sites.

We encourage you to delay the release of the PRLAs until all environmental and sociological impacts on the area have been fully evaluated to make sure that all federal regulations will be satisfied.

Sincerely,
Nina Rappaport
Nina Rappaport
Solstice Project

P.O. Box 1333
Roswell, New Mexico 88201

May 16, 1983

Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources
United States Senate
Dirksen Senate Office Building
Washington, D. C. 20510

Gentlemen: Re: Bisti Wilderness Bill (S.285)

As our Senator Jeff Bingaman has suggested, we are sending our written comments on the Bisti Wilderness Bill (S.285). Unfortunately, we find it impossible to personally present our views at the May 17th hearing in Santa Fe. Therefore, please include our written comments as part of the hearing record.

There must be a close examination of any effort by the Federal Government for the massive coal leasing near the Bisti Badlands, Chaco Culture National Historic Park and Shrine, and the San Juan Basin of New Mexico.

Any attempt by Secretary James Watt for massive coal leasing under conditions such as were pursued in the Powder River Basin leasing must be met with stern resistance by all the people of New Mexico as well as the Indian Tribes affected.

Two GAO reports lead to conclusions by Congressional Committees that less than fair market value was obtained for the coal in Wyoming and Montana. It is estimated that the loss to the public on the Powder River deal is one hundred million dollars due to the bargain rates accepted. A close study should be made of the operations of Secretary Watt's dealing with corporations.

We are in agreement with many officials that it is important that the views of New Mexicans be heard on this issue. We believe that it was during such hearings that the Teapot Dome scandal was finally brought to light. Why the rush about all this leasing? There is sufficient coal available now for all immediate purposes.

Please, let's examine all phases of these deals, "FIRE SALES," or whatever.

Sincerely yours,
Marge Reiser
Adam Henri Reiser

MR. AND MRS. ADAM HENRI REISER

May 22, 1983

Public Lands & Reserved Water Subcommittee
Committee on Energy & Natural Resources
U.S. Senate, Dirksen Senate Office Bldg.
Washington D.C. 20510

Dear Senator Bingamon,

I am writing in strong support of the Bisti Wilderness Bill (S. 285), and ask that my comments and testimony (attached) be included in the subcommittee's hearing record. While I want the badlands area in Bisti to achieve wilderness protection, I feel the bill should go further and designate both greater acreage and include De-Na-Zin and Ah-shi-sle-pah as future wilderness areas.

The relatively small size of Bisti limits the benefits to both animal habitats and surface erosion problems which larger designated areas could improve. However, the bill is a good beginning which may hopefully open the door to further wilderness areas, and a greater awareness of the unique beauty and natural assets of this area - over and above coal development.

Thank you for your efforts on behalf of this bill, and best wishes for continued success this year.

Sincerely yours,

Mrs. Teresa C. Seamster

RR2, Box 257-C
Aztec, NM 87410

Public Lands & Reserved Water Subcommittee
Committee on Energy & Natural Resources
US Senate, Dirksen Senate Office Bldg.
Washington, D.C. 20510

San Juan Basin Coal Development Plan
& Bisti Wilderness Proposal

1. San Juan Regional Coal Development

Of the proposed four leasing alternatives mentioned in the EIS, and the "no action" alternative - I prefer the **Bypass Alternative** as it limits the surface damage to the least amount of acreage. It shows a more common sense approach to strip mining in that tracts can only be mined if they are adjacent to existing mines while other tracts will be bypassed until future need dictates. This shows a better conservation of resources and longer-term jobs as the EIS indicates that the same personnel would work both the mines and adjacent tracts. All other alternatives indicate too high a rate of mining development for the area's well-being, and too high an increase of air pollution and surface erosion. Slow development, that allows more desireable and lucrative uses to develop (recreation, cultural center, tourism, clean industry) is far preferable to the "target" alternative.

2. Wilderness Areas

I strongly support the designation of the Bisti and De-Na-Zin WSAs as Wilderness areas (Proposed Action), although I question the environmental integrity of these areas if either heavy mining or the proposed power plant is approved. Proposing a power plant within sight of a priceless national monument, and allowing strip mining in and around wilderness areas, is extremely counter-productive. You cannot have such incompatible functions close together without great conflicts over access, use and management. If DOI and BLM were serious about the preservation of national assets and the wise use of resources, they would separate functions by significant buffer areas, or abolish such checkerboard activity entirely.

Submitted by:
Mrs. Teresa C. Seamster

RR 2, Box 257-C
Aztec, NM 87410

3939 Rio Grande Blvd., N.W. #75
Albuquerque, New Mexico 87107
May 23, 1983

Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources
United States Senate
Dirksen Senate Office Building
Washington, D. C. 20510

Dear Subcommittee:

Senator Jeff Bingaman has encouraged me to submit comments to you until May 31 relative to the Bisti Wilderness Bill (S. 285). His encouragement to me was an acknowledgment of my sending him a copy of my statement to the BLM-Santa Fe, dated April 2, 1983.

He also instructed me to contact a member of his staff, Mitch Foushee, should I wish to have my statement to the BLM entered into your hearing record. By copy of this letter to Mr. Foushee, I now make this request.

At this time, in view of your hearing held May 17, I would like to emphasize brief portions of my statement to the BLM which in no way imply no future need for coal mining and electrical generation.

1-Why can't the emphasis on coal mining be shifted to McKinley County, a greater distance from environmentally sensitive Bisti and Chaco? I support the swap that Santa Fe Pacific Railroad is proposing which would give the BLM more contiguous parcels of land to lease in McKinley County.

2-Why can't the Star Lake Railroad be built to serve only the coal mines in McKinley County and the Star Lake area?

3-Why can't serious consideration be given to locating the New Mexico Generating Station not in the Bisti but at the McKinley County alternate site briefly mentioned in the NMGS Environmental Impact Statement? (A layman's explanation of the difference in the water availability between the Bisti and this alternate would be helpful.)

One of the most telling remarks concerning the Bisti was reported to have been made by Assistant Secretary of Interior, Garrey Carruthers following your May 17 hearing. He suggested more restrictions for Bisti than other wilderness areas and more careful handling because of its fragile nature.

I am deeply concerned about Public Service of New Mexico's subsidiary, Sunbelt Mining's Gateway mine which juts into the Bisti and the omen which it portends. I am certain Gateway will exert the utmost care in their blasting operations so as to cause the least amount of disturbance to the Bisti formations. Is that good enough? In sending a copy of my BLM statement to PNM, I have suggested that an excellent public relations gesture would be for PNM to invite interested parties on all sides of the controversy to study the conversion of Gateway into an area as compatible as possible with the Bisti once mining operations have ceased. This seems to me to be a logical first step as a follow-up to PNM chairman's statement calling for unification between the utility and environmentalists to protect the Bisti.

PNM has responded to me with the view that development on the periphery of a wilderness area does not constitute a breach of the wilderness. Expressed in that general context, I choose not to refute. But then I ask these questions--Should each potential wilderness area be examined on its own merits? Does the Bisti merit special consideration as Sec'y. Carruthers suggests? Does the unfortunate combination of its fragility and its peculiar configuration enveloping the Gateway mine suggest that some kind of a bypass, buffer or alternate should have been considered in the first place?

Even though Gateway is not on federal land and is already operational, I believe it is very relevant to the concerns which your subcommittee is addressing. In deciding where, when, how much wilderness areas are to be created in the San Juan Basin and with what, if any, special considerations are to be taken into account, you first need to examine all existing impacts.

I applaud Senators Domenici and Bingaman's sponsorship of the Bisti Wilderness bill. Like others, I question the need for passage of S. 285 as is until completion of the wilderness study process and further consideration of De-Na-Zin, Ah-Shi-Sle-Pah WSA's and possibly Fossil Forest. Introduction of S. 285 is a good beginning.

Sincerely,

Hugh Maxwell

Hugh P. Maxwell

cc: Governor Anaya
cc: Commissioner Baca
cc: Secretary Biderman
cc: Senator Bingaman/Foushee
cc: G. G. Byers, Mgr. Gov't. Affairs, Santa Fe Mining
cc: Senator Domenici
cc: Representative Lujan
cc: Director Luscher, BLM-Santa Fe
cc: J. B. Mulcock, Sector VP, PNM
cc: Representative Richardson
cc: Representative Skeen
cc: Secretary Witt

May 25, 1983

Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources
United States Senate
Dirksen Office Building
Washington, DC 20510

Re: Bisti Wilderness Bill (S.285)

I would like to strongly encourage the committee to include all three Wilderness Study areas as well as the Fossil Forest areas of the San Juan Basin in any wilderness bill currently before the Senate.

I have spent substantial time in the area and feel that these resources are uniquely appropriate for wilderness status. The present rush to mine coal for which there is no market, when indeed coal miners in other parts of this state are out of work, is a travesty. The pressures are great to develop this land, but the needs of the nation are best served by an expanded wilderness bill.

Sincerely,

Thomas Jervis
60 Barranca Rd.
Los Alamos, NM 87544

2004C 23rd Street
Los Alamos, New Mexico 87544
May 25, 1983

Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources
United States Senate
Dirksen Senate Office Building
Washington, D.C. 20510

Gentlemen:

This is written to urge that Senate Bill 285 be amended to provide wilderness designation for the entire New Mexico Bisti, Denazin and Ashi-sle-pah areas within the boundaries of their natural geographical contours. I also request that the Fossil Forest be put under guardianship of the Federal government in order that its paleontological resources could be studied and preserved by an educational institution such as the New Mexico Museum of Natural History. (The Forest is too subject to amateur "bone-hunters.")

I wish to have my remarks made part of the record of the May 17, 1983 hearing held in Washington on this bill.

I understand from Congressional field hearings held in Santa Fe on May 21st that in any land exchange which might be involved, coal companies holding mining leases would be compensated for the minerals on said leases. I fail to see why. I believe it would be more realistic to simply return the cost of acquiring the leases, plus any rents paid, plus five percent interest. Otherwise, the process provides for speculation by the coal companies in another form.

Sincerely,

Lillian Tenopyr

Lillian Tenopyr

Post Office Box 576
Crownpoint, New Mexico 87313
26 May 1983

Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Sirs:

I am writing you regarding S. 285, a bill to preserve the Bisti Wilderness Study Area as wilderness. As I was unable to attend the public hearing, I would like to submit these comments.

While I support the concept of preserving this unique and valuable area from stripmining, I do not feel the bill is adequate. Its scope must be expanded. Much of the adjacent land is every bit as beautiful and valuable archeologically and paleontologically. Each of these values - its stark beauty, its fossils and its prehistoric ruins - is unreclaimable should wilderness designation be lost to the rest of the area and coal development proceeds. To see the beauty and importance of a Chacoan civilization, one needs only to walk through a ruin. The loss would be irrevocable.

Because there is no pressing need to develop the energy resources of the area that outweighs the potential loss, I am opposed to any coal mining - strip mining or underground mining - in the San Juan Basin.

As a resident of the area, I acutely feel the need to have the areas included go beyond what is outlined in the bill. At a minimum, the De-Na-Zin and Ah-Shi-Sle-Pah Wilderness Study Areas should be given full wilderness status, and the "Fossil Forest" area needs to be included separately.

Sincerely,

Carol Garner-Williams

Carol Garner-Williams

xc: Senator Jeff Bingaman
Senator Pete Domenici

Post Office Box 576
Crownpoint, New Mexico 87313
26 May 1983

Public Lands and Reserved Water Subcommittee
Committee on Energy and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Sirs:

This is in regards to S. 285, dealing~~s~~ with the Bisti Wilderness Study Area. As I was unable to attend the public hearing, I would like to submit these comments.

The intent of the bill is laudable, but I feel its scope must be expanded. Much of the adjacent land is every bit as beautiful and valuable archeologically and paleontologically. Each of these values - its stark beauty, its fossils and its prehistoric ruins - is unreclaimable should wilderness designation be lost to the rest of the area and coal development proceeds. The loss would be irrevocable. One needs only to walk through one of the ruins of the Chacoan civilization once to know how important it is to preserve the other areas entirely. There is no pressing need to develop the areas that outweighs the potential loss.

As a resident of the area, I acutely feel the need to have the areas included go beyond what is outlined in the bill. At a minimum, the De-Na-Zin and Ah-Shi-Sle-Pah Wilderness Study Areas should be given full wilderness status, and the "Fossil Forest" area needs to be included separately.

Sincerely,

RWilliams

Robert Williams, M. D.

xc: Senator Jeff Bingaman
Senator Pete Domenici

American Wilderness Alliance
4260 East Evans Avenue/Suite 8/Denver, Colorado 80222/(303) 758-5018

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EDITORIAL OFFICES
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William A. Schneider
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324 Fuller
Helena, Montana 59601

May 26, 1983

Senator Malcolm Wallop, Chairman
Subcommittee on Public Lands and Reserved Water
Energy and Natural Resources Committee
Senate Office Building
Washington, D. C. 20510

Dear Senator Wallop:

Please include these comments in the record of the May 17 hearing on S. 626 to designate the Aravaipa Canyon Wilderness.

The American Wilderness Alliance is a national non-profit conservation organization, dedicated to conserving the public's decreasing wildlands, wildlife habitat and wild river resources.

The Alliance strongly supports establishment of the Aravaipa Wilderness. Many of our Arizona members and I have visited and used the area for wilderness purposes and are familiar with its wilderness characteristics. It is eminently qualified for wilderness status.

Aravaipa Canyon is a beautiful wilderness oasis in the Sonoran Desert of Arizona. It provides undisturbed habitats for sensitive bighorn sheep and a wealth of birdlife, all of which would benefit from a wilderness classification.

Aravaipa Canyon is unique in having a perennial-flowing stream in a desert environment. Although the canyon appears rugged, its ecology is very fragile. A wilderness designation would strengthen the hands of the public land administrators in safeguarding this exquisite canyon and its associated resources. It would represent the first area administered by the Bureau of Land Management in Arizona to be given wilderness protection.

We respectfully urge prompt passage of this legislation.

Sincerely,

Clifton R. Merritt

Clifton R. Merritt
Executive Director

CRM:dbn

Working Together To
Conserve Wild America

A C Star Route Box 4320
Winkelman, Arizona 85292

May 17, 1983

Senator Barry Goldwater
337 Russell
Senate Office Bldg.
Washington, D.C. 20510

Dear Barry:

It gives me great pleasure to give you a resume in regard to the Aravaipa Wilderness Bill S.626 sponsored by you.

The Aravaipa Canyon is located about 45 air miles north of Tucson and approximately 80 air miles east of Phoenix.

Since my father and mother came here in the early 1880's my father a cattle rancher, my mother a teacher and later a legislative advisor, I have lived here next to the Primitive Area for over 60 years. We leased part of the land which is now the Primitive Area for several years for our cattle operation, but we discontinued its use for livestock.

As the Aravaipa Canyon is a uniquie and pristine area, we feel the 6,670 acres should be preserved forever to be used for education, recreation, and conservation. Right now all of our institutions of higher learning in this state and others use the area for their studies in Ichthyology, Anthropology, Geology and Zoology. Some have earned their Master's and Doctor's degrees from their studies here in the categories just mentioned.

Due to its unusual growth of vegetation and semi-tropical climate it is very important in the study of Range Management.

As the Defenders of Wildlife now have control of the ingress and egress of the proposed Wilderness Area it will be necessary to purchase or exchange lands with the Department of Interior to complete this project; however, I feel that the Defenders of Wildlife will be very receptive in this proposal.

We wish you much success with a speedy passage of the Aravaipa Wilderness Bill.

With kindest regards from all of our family to you and yours,

Sincerely,
Fred D. Wood
Fred D. Wood

cc. William Roe, Putnam Livermore

Good afternoon, Mr. Chairman, members of the Senate Hearing Committee. My name is Dr. Don Geldmacher and I represent The Aravaipa Canyon Property Owners Association.

At this time our organization does support the inclusion of Aravaipa Canyon Primitive Area into the National Wilderness Preservation System. However, that has not always been the case. The uniqueness of Aravaipa Canyon does not begin and end with the BLM boundary line, but in fact extends several miles above and several miles below and includes the full length of the perennial free flowing stream.

All of the residents love, admire, and respect it. Therefore, the canyon was not in danger of being degraded by the ranchers or residents who have preserved it. It could only be degraded by visitor overuse. Original BLM proposals of picnic areas, overnight camping, horse corrals, day use facilities, educational center, administrative sites, homes for employees, and many other support proposals presented to us a picture of a 5,000 acre picnic ground not wilderness preservation. Such proposal would result in the destruction of the ACPA and the eventual extension to our residence locations. Because of the character of the canyon bottom, the present allotted use of 50 people a day realistically could place one person on every 10 acres of canyon floor every day. This number should be reduced.

With your approval the ACPA will be included in the National Wilderness preservation system. It is imperative for its preservation that BLM be restrained from the previously mentioned proposals. To retain it as it is, which is I believe the basic desire of Congress in Wilderness Management, needs no more than to effectively restrict people use and effectively restrain overzealous management proposals. National Wilderness Preservation System does have the credentials to enforce this control, therefore, it has our support.

As simple as this solution seems, there was "A Wilderness Experience" to be endured. Not the kind that you hear in glowing terms of magnificent vistas, solitude, and quiet personal contact with an unspoiled environment; but one of confrontation, abuse, deceit, and unreasonable aggressiveness by State and District Bureau of Land Management officials. The complexity of Bureau proposals, directives, mandates, and decisions created confusion, anger, anxiety, and a lasting distruct of this agency of the Federal Government by the majority of the twenty four families who reside on the west access road to the Aravaipa Canyon Primitive Area.

Even though ACPA would barely qualify for consideration because of its size, 5,000 acres was set as a bench mark by FLPMA, all of the participants for consideration of future areas were present: the mining industry represented by Kennecott, ASARCO, Magma, and Inspiration Miami, all located within 50 miles of ACPA. Washington based wilderness wildlife organizations represented by Natures Conservacy and Defenders of Wildlife, U.S. Fish and Wildlife Service, Arizona Game and Fish, Bureau of Land Management, Arizona State Land Department, Pinal and Grahma Counites Az., the general public, and of course our association. Our primary concern was health and safety for the residents who live on the west access road. Traffic counts done at the time of wilderness study, indicated that local use already places this poorly maintained and dangerous road in violation of the Clean Air Act of 1977 for ambient air quality. Consideration must be given to some realignment and some type of surfacing adjacent to the permanent resident's homes.

The situation became more complex because BLM was attempting to carry on four projects simultaneously with overlapping directives: (1) Winkelman Planning Unit was being programmed for Land Use Management, (2) Environmental Impact Statements were being done on all allotments with projected Allotment Management Plans, (3) Instant Study continued for ACPA and (4)

Wilderness inventory for all other qualifying roadless areas. Land Use Management proposed the acquisition of 30,000 acres of state and private lands adjacent to the ACPA for wilderness support and additional recreational facilities. A request six times as large as the original ACPA proposal. The Wilderness Act of 1964 and FLPMA of 1976 both failed to place restraint on National Regional projects so as to protect the health and safety of adjacent landowners.

Through these four years as the representative of private citizens whose only desire was to protect their property from degradation and ensure the health and safety of their families a new concept was born, "The District Public Lands Advisory Council". Finally, there was a forum and a council of peers to evaluate the positions presented by the single issue pressure groups. The inclusion of this Board of Revue is for the general citizens the most significant feature of FLPMA. This council of citizens representing divergent views for the use of Federal Lands was able to maintain a rational perspective.

The goal, wilderness preservation, within the multiple use framework, then is the final subject of this presentation. Consideration of proposals to reach this goal are, therefore, not of a persom nature or of rancher vs.

BLM employee, or even urban vs. rural, they go to our basic federalism and are very well expressed by the report of the Avisory Commission of the Intergovernmental Relation (Governor Babbitt being a member). I quote: "American federalism's most trumpeted traditional traits--flexibility and workability--are critically endangered. A rather fanciful form of federalism, then, has emerged. Basic policies in most program areas appear to be made in Washington D. C., either by the court or the Congress and their implementation is acheived through decisions, orders, mandates, conditions, regulations, and the lure of federal loot by twelve million federal, state, and local civil servants".

The previously mentioned single interest groups, and you must recognize BLM, Fish and Wildlife, and other political jurisdictions as additions to this list for they do indeed utilize all of the tactics of the new federalism which pits agency against political body contesting for the dollars from Washington. In this case the eleven billion dollars that will be available from the Land and Water Conservation Fund. It is a big dollar business that Fish and Wildlife, Forst Service, and National Park Service have successfully manipulated with Natures Conservacy and DOW to increase their in Fee lands. These organizations have purchased private lands at the suggestion of the

Parks and Forest Service while these agencies waited on the Land and Water Conservation Fund to finalize the transaction. I think that it is imperative to heed the advice of the Comptroller General's report to Chairman Phillip Burton of the subcommittee on National Parks, House interior and insular affairs Committee, December 14, 1979. The G. A. O. reached the conclusion that purchases of private lands by Forests, Parks, and Fish and Wildlife using Washington based Wilderness Wildlife Orgainizations as front men were resulting in not only unnecessary acquisitions but also unreasonably pursuing adjacent private property. G. A. O.'s conclusion that either leasing or purchase lease back offered the more cost effective and socially acceptable result. Many such leases have been successfully negotiated by states.

Aravaipa, I'm sure is similar in many ways to these areas now undergoing Wilderness review. Even though the area being considered is Federal they are adjacent to deeded and State Trust Lands as was the case in Aravaipa. Someone utilized the renewable natural resources for livestock production. The area was remote, had an abundance of wildlife and was blessed with outstanding natural scenic beauty. All of these outstanding characteristics are still there. Why? There can only be one reason. There was a steward on the land, for Aravaipa they were: Salazar, McNair, Flieger, Woods, and Whites. During sixty or more years these ranch families made the conversion from open range to the development of ranches within fences, from Angora goats to beef cattle, yet they not only protected the resources but also developed waters, built and maintained trails, controlled predators, and assisted game and fish in introducing the present herd of bighorn sheep. Everyone recognizes Deward Stanford's contributation in trapping out the lions that had nearly consumed the sheep herd. If he were still the owner today, his reward would be a reduction in grazing permit for the sheep he saved from extinction. Just as dollars are the bases for agencies and public bodies seeking Washington funds, dollars are represented in grazing permit by the livestock producer.

Although it is too late now for Aravaipa, as you consider future areas for inclusion in the NWPS, I propose that you consider stewardship leases as an alternative to Wilderness designation for areas such as Aravaipa Canyon. When an allotment is blessed with, and the steward on the land has protected the natural resources, consider a way to keep the steward on the land, not a way to drive him off. If you do not give council to these thoughts, no ranch, no farm, rancher or farmer who has been a steward to his land is safe from the Washington based Wilderness Wildlife Organizations, a group of elitist's who believe that everything that has natural beauty should belong to them so that they may advertise what a magnificent place they have saved. Immediately to list this salvation in their brochures, magazines, and media so that all new contributors to their organizations can plan a trip for its ultimate destruction.

What are stewardship lease? A stewardship lease whould provide perpetual care yet productive use of federal land whether classified as Primitive, Wilderness or area of critical environmental concern. While at the same time it would provide this same care for adjacent state, county, or deeded land. A stewardship lease would be truly multiple use; mining, hunting, recreation, wildlife, and grazing. Instead of penalizing a Deward Stanford he would be rewarded. Land and Water Conservation Funds would reemburse him for lost grazing permit. Future area selected for introduction of exotic game species would receive the assistance of that area's steward if he or she were guaranteed that if successful the burden of payment would not lie entirely on them. AUM's taken for game species should be reembursed. Hunters would find all gates open but controlled to a stewardship lease. Not what we find now in Aravaipa where all west access gates to State and Federal lands for hunting and recreation are posted by DOW as "George Whittel

Wildlife Preserve, No hunting or trespassing". Hunting and recreation are being denied on these state and federal lands. Recreationalists, would be allowed access, whether rock hound or four wheel club with stewardship control. There would be access to federal, state, and private lands. The steward would be reembursed in lease for these uses. Had there been a stewardship lease, I do not believe the Woods ranch would have been sold, nor McNair, nor Salazar. The salary paid the park technician could be the difference between a real steward leaving of staying. There would be no need for technician or administrative buildings. The steward should be reembursed for providing these facilites.

Of equal importance the area residents would still have a neighbor. For this reason stewardship leases nust be accountable and responsible only to the District Public Lands Advisory Council, only this group of peers with advocates in each of the multiple use aspects could reasonably evaluate the conflicts. Thestewardship lease could become the most prized of all Allotment Managaement Plans. The value of the property as well as the preservation of the natural resource would be retained while public access and enjoyment would be managed in full compliance with Wilderness Management Guidelines. The steward or stewards would be directed by the District Public Lands Advisory Council in fulfilling a wilderness management plan that fully implements the mandate of Congress